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ABSTRACT

Included in this document are the text of S. 2712, statements by witnesses, and letters and comments from both government and American Indian representatives. The purpose of this legislation is to require all federal agencies which administer special programs and services for Indians to provide an annual report to Congress to facilitate program evaluation; the bill also calls for a comprehensive needs assessment to be conducted every five years and for establishment of a Federal Interagency Council on Indian Affairs to coordinate federal Indian programs, policy, and budgetary planning. Prepared statements include representation from: National Congress of American Indians; Community Services Administration; Council of Energy Resource Tribes; Department of Health, Education, and Welfare; Navajo and Hopi Indian Relocation Commission; and Department of the Interior. Government comment representation includes: Department of Commerce; Deputy Comptroller General of the U.S.; Federal Election Commission; General Services Administration; Housing and Urban Development; Department of Labor; Senator from Hawaii; Small Business Administration; U.S. Department of Transportation; and U.S. Department of the Treasury. Indian comment representation includes: Central Maine Indian Association, Inc.; Colville Confederated Tribes; Council of Energy Resource Tribes; former Counsel for the Navajo Tribe; Miccosukee Tribe; Northern Cheyenne Tribe; Shoalwater Bay Indian Tribe; Upper Coalition of Minneapolis; and Wilkinson, Cragun, and Barker (legal counsel for various tribes/organizations). (JC)

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ED160323

INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT

HEARINGS

BEFORE THE

UNITED STATES SENATE

SELECT COMMITTEE ON INDIAN AFFAIRS

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S. 2712

RELATING TO THE EVALUATION AND ASSESSMENT OF INDIAN PROGRAMS AND NEEDS, AND FOR OTHER PURPOSES

APRIL 17 AND 21, 1978

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT

MONDAY, APRIL 17, 1978

U.S. Senate,
Select Committee on Indian Affairs,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 6226, Dirksen Office Building, Senator James Abourezk (chairman of the committee) presiding.

Present: Senators Abourezk and Hatfield.

Staff present: Alan Parker, chief counsel; and Karl Funke, assistant counsel.

Chairman **Abourezk**. The committee will be in order.

I have an opening statement which I will put in the record and not read. Hopefully, that is an example to witnesses.

I also place in the record a copy of S. 2712, the bill under consideration this morning.

[The material follows:]

SENATOR JAMES ABOUREZK

OPENING STATEMENT

The purpose of this Hearing before the Senate Select Committee on Indian Affairs is to take testimony from Tribes and Indian Organizations as well as the Administration on S. 2712, the Indian Program Evaluation and Needs Assessment bill. The purpose of this legislation is to require all Federal agencies which administer special programs and services for Indians to provide an annual report to Congress which would contain information critical to the Congress in evaluating the effectiveness of Indian programs, and the fluctuating status of Indian lands. In addition, the bill would require that a comprehensive needs assessment be done every 5 years so that the Congress can more realistically evaluate the actual unmet needs of Indians throughout the Country. The bill would also establish a Federal Interagency Council on Indian Affairs to coordinate Federal Indian programs, policy, and budgetary planning so as to facilitate effectiveness of the programs.

The lack of information has in the past severely hampered the Congress in evaluating the effectiveness of Federal Indian programs, and the effectiveness and performance of the Federal agencies administering them.

The periodic needs assessment called for in the bill would greatly assist the Congress as well as the Indians in developing long-range plans and making critical budgetary and appropriations decisions based on a realistic assessment of what the needs are.

At present time, there is very little if any coordination of Federal Indian programs between the various Federal agencies. The effectiveness of the programs and the well-being of the Indian people often suffer needlessly as a result. The Federal Interagency Council proposed in this bill could go a long way in developing consistent program policies and facilitating coordination of Federal Indian programs between agencies.

Most of the data collection and reporting requirements which would be imposed on the agencies by this bill could be built into existing management information systems of the agencies and should not require any significant increase in administrative costs or time.

In my view, the bill would only require information which the agencies and the Congress should maintain as a matter of good management practices which could be used by the agencies in more effectively administering the funds appropriated for Federal Indian programs and by the Congress in evaluating the same.

This hearing will take place over a two day span. Today the Committee is happy to hear from three distinguished witnesses, the Coalition of Energy Resource Tribes, the Community Services Administration and the National Congress of American Indians. On behalf of myself and the Committee members I would like to welcome you here today and thank you for your interest and participation in this important hearing.

95TH CONGRESS
2D SESSION

S. 2712

IN THE SENATE OF THE UNITED STATES

MARCH 9 (legislative day, FEBRUARY 6), 1978

Mr. ABOUREZK (for himself, Mr. DOMENICI, Mr. BURDICK, Mr. MATSUNAGA, Mr. KENNEDY, Mr. DECONCINI, Mr. INOUYE, and Mr. HART) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

---

A BILL

Relating to the evaluation and assessment of Indian programs and needs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Program Evaluation and Needs Assessment Act".

FINDINGS

SEC. 2. (a) The Congress, after careful review of the data and information available to the Congress and the Federal agencies, finds that—

(1) there is inadequate information available to the Congress to enable appropriate committees to conduct

effective oversight of the programs and Federal agencies dealing with Indian affairs;

(2) the Federal agencies have not developed the reporting mechanisms and data necessary to determine the needs of Indians and Alaska Natives; and

(3) The lack of information relative to the programs and the Federal agencies dealing with Indian affairs has severely hampered the Congress in its evaluation of the effectiveness of the programs, the effectiveness and efficiency of the Federal agencies administering the programs, the adequacy of interagency coordination of programs, and the determination of whether the actual needs of Indians are being met and whether the Federal Government is meeting its trust responsibility to Indians.

(b) The Congress further finds that—

(1) Indian people, on the average, have ranked and continue to rank among the highest in infant mortality rate, the lowest in longevity rate, the lowest in level of educational attainment, the lowest in per capita income, and the poorest in housing and transportation in the United States.

(2) The continuance of these conditions is due in part to the Federal Government's inability to identify and evaluate the needs of Indian people and to coordi-

nate and effectively administer programs for the benefit of Indians.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(a) "Indian" shall be defined pursuant to the Act or Acts, and/or regulations or practices by which the respective Federal agencies determine service eligibility of Indians for the programs and services which they administer.

(b) "Indian tribe" means—

(1) Any Indian tribe, band, nation, pueblo, or other organized group or community, including Alaska Native villages as defined in the Alaska Native Claims Settlement Act, which is recognized as being eligible for the special programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians; and

(2) Any Indian tribe, band, nation, or pueblo which does not qualify as an Indian tribe under subsection (b) (1) above, but which is defined as an Indian tribe pursuant to the Act or Acts, and/or regulations or practices by which Federal agencies, other than the Bureau of Indian Affairs, determine eligibility of Indian tribes for the programs and services which they administer.

(c) "Tribal organization" means the recognized governing body of any Indian tribe and any legally established organization of Indians performing governmental functions which is controlled, sanctioned, or chartered by such tribal governing body, or which is democratically elected by the adult members of the tribal community to be served by such organization and which includes participation of Indians in all phases of its activities.

(d) "Nontribal Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians or a majority of whose numbers are Indian, whose function is other than economic enterprise for profit and which does not constitute a tribe or tribal organization.

(e) "Indian economic enterprise" means any Indian owned commercial, industrial, or business activity established or organized for the purpose of profit as defined in section 3 (e) of the Act of April 12, 1974 (88 Stat. 77; 25 U.S.C. 1452 (e)).

(f) "Non-Indian organization" means any public or private group, association, partnership, corporation, or other legal entity which is not owned or controlled by Indians or a majority of whose members are not Indian, which has received a Federal grant or contract to perform services or engage in other activity specifically to or for the benefit of Indians.

(g) "Federal agency" means any agency as defined by section 551 (1) of title 5, United States Code.

(h) "Direct services" means any program or service provided to Indians other than contracts, grants, loans or other transfer of money or property which is directly administered by or performed by the personnel of a Federal agency, without involvement of any State government, political subdivision thereof or any non-Indian organization.

(i) "Indirect services" means any program or service provided to Indians other than contracts, grants, loans, or other transfer of money or property which is directly administered by or performed by the personnel of a Federal agency, which does involve utilization of personnel or administrative structures of State governments, political subdivisions or agencies thereof, or non-Indian organizations.

(j) "Direct funding" means any contract, grant, revenue sharing, loan or other transfer of money or property from the administering Federal agency to the tribe, tribal organization, nontribal Indian organization or Indian economic enterprise without involvement of a State government, political subdivision thereof, or non-Indian organization.

(k) "Indirect funding" means any contract, grant, revenue sharing, loan, or other transfer of money or property from the administering Federal agency which does involve State governments, political subdivisions or agencies thereof, or non-Indian organizations in the transfer or in the approval of the transfer of such funds to a tribe, tribal organization, nontribal Indian organization, or Indian economic enterprise.

(l) "Federal domestic assistance program" means any Federal program listed in the Catalog of Federal Domestic Assistance compiled by the Executive Office of the President, Office of Management and Budget, or any other function of a Federal agency which is determined to be such a program by the Federal Interagency Council on Indian Affairs established in title II of this Act.

TITLE I—PROGRAM EXPENDITURE DATA

SEC. 101. (a) The head of each Federal agency shall develop procedures for compiling, maintaining, keeping current, and reporting to the Congress data and information concerning:

(1) The agency's annual expenditures for programs and services for which Indian tribes, tribal organizations, Indian economic enterprises, or nontribal Indian organizations are eligible;

(2) Any service or program provided specifically to or for the benefit of Indians whether provided to Indian tribes, tribal organizations, Indian economic enterprises, nontribal Indian organizations, or individual Indians or funded through non-Indian organizations; and

(3) The agency's method of delivery of services and funding.

(b) The data and information shall identify and include the total annual expenditure of the Federal agency by program provided through—

(1) direct services,

(2) indirect services,

(3) direct funding, and

(4) indirect funding.

(c) The report of expenditures required in subsection (b) above shall further categorize and separate totals reported for direct and indirect services and for direct and indirect funding respectively provided to—

(1) each individual tribe and tribal organization and the aggregate amount by State;

(2) each individual Indian economic enterprise and the aggregate amount by State;

(3) each individual nontribal Indian organization and the aggregate amount by State; and

(4) each individual non-Indian organization and the aggregate amount by State.

AGENCY FISCAL ACCOUNTABILITY

SEC. 102. (a) Each Federal agency or division or program office thereof which administers any program specifically to or for the benefit of Indians or which administers any program for which there is a specific amount allocated or set aside at the beginning of the fiscal year specifically for Indians shall compile and maintain and report to the Congress detailed information on:

(1) The aggregate total dollar amount and percentage of the agency's total appropriations charged to Indian affairs or Indian services which comprise administrative and overhead costs.

(2) For each program appropriation, allocation, or set-aside specifically to or for the benefit of Indians, the percentage and dollar amount of each program appropriation, allocation or set-aside charged to administrative and overhead costs and the percentage and dollar amounts expended for actual services and funding to Indians.

(b) The above data and information shall be stated separately for the agency's central office and each area or regional office, and each local or agency office.

(c) The General Accounting Office shall be responsible for defining, for purposes of this Act, what are administrative and overhead costs and each agency shall be required to apply such definitions in maintaining the above data.

PROGRAM ALLOCATIONS

SEC. 103. (a) With regard to appropriations for programs and services which are not specifically directed to or for the benefit of Indians but for which Indians are eligible for benefits as members of the general populace, the head of each Federal agency shall compile, maintain, and report to the Congress data and information concerning—

(1) the percentage and dollar amount of any program appropriation for which said Federal agency has had a specific percentage or dollar amount designated or set aside specifically for Indians at the beginning of the fiscal year; and

(2) the aggregate amounts and percentage of such set-aside (s) specifically allocated at the beginning of the fiscal year to specific Indian tribes, tribal organizations, nontribal Indian organizations, and Indian reservations and the percentage and dollar amount reserved by the agency for administrative costs and/or discretionary use at a later time; and

(3) the separate dollar amounts so allocated for each individual tribe, tribal organization, nontribal Indian organization and Indian reservation.

(b) With regard to appropriations for programs and services specifically directed to or for the benefit of Indians, the head of each Federal agency shall provide—

(1) the total dollar amount appropriated for each program;

(2) the percentage and aggregate dollar amount of each program appropriation which was allocated at the

beginning of the fiscal year to specific Indian tribes, tribal organizations, nontribal Indian organizations, and Indian reservations;

(3) the separate dollar amounts of each such program so allocated for each individual Indian tribe, tribal organization, nontribal Indian organization, and Indian reservation; and

(4) the percentage and dollar amount of any program appropriation based on formulas governing the distribution of funds to Indians.

PROGRAM ELIGIBILITY

SEC. 104. (a) The head of each Federal agency shall, on a five-year basis, provide a list of all Federal domestic assistance programs administered by the agency for which any State or any political subdivision thereof is eligible for direct funding or direct services, but for which Indian tribal governments are not eligible for direct funding or direct services. For each program so identified, the agency shall provide citations to the specific statutory or regulatory provisions which prohibit tribal governments' eligibility for direct funding or direct services, or attach copies of those administrative opinions which determined the noneligibility of Indian tribes.

INDIAN LAND STATUS

SEC. 105. (a) With respect to each Indian reservation, former reservation, dependent Indian community, or other geographic area identified with a particular tribe or tribes being served by the Bureau of Indian Affairs in which Indian trust or restricted land or other trust property is located, the Bureau of Indian Affairs shall provide to the Congress a comprehensive record of the land holdings and use patterns of such trust lands or other trust resources. The record of land holdings and use patterns shall include—

(1) the total acreage within the boundaries of the reservation;

(2) the total acreage of land in trust status, with a breakdown of acreage that is tribally owned, the acreage in trust allotted or restricted fee status, the acreage held by the Federal Government, the acreage held in fee status by Indians who are members of the tribe, the acreage held by nonmember Indians or non-Indian individuals and organizations and the acreage held by the State or a subdivision thereof;

(3) the number and total acreage of trust allotments on each reservation which are held in multiple ownership of ten people or more;

(4) the number and total acreage of trust allotments on each reservation which are under lease to other than the tribe or members of the tribe;

(5) the total acreage of tribal trust land and the

total acreage of tribal fee land on each reservation which is under lease;

(6) an assessment as to whether the tribal and allotted lands are held in economically viable units taking into consideration both the actual or potential economic utilization by the tribe and the economic and efficient administration by the Government as trustee;

(7) the total acreage of tribal, allotted trust, and restricted fee land which passed out of tribal or Indian ownership during the past fiscal year, and the manner and reason for the conveyances; and

(8) the total acreage of land purchased, being purchased, or otherwise conveyed to members of the Indian tribe or the tribe during the past fiscal year with monetary assistance from the Federal Government, including—

(A) the acreage of such land placed in trust or restricted fee status; and

(B) the Federal program which provided such assistance and the nature of the assistance;

(9) a listing of each Federal program, whether or not it is currently funded, and each authorizing statute which permits the various Federal agencies to assist tribes or tribal members in acquiring land or in purchasing land, and state the dollar amounts which were

requested by the respective agencies to be appropriated for each of the programs, if any, and the appropriation actually received.

NEEDS ASSESSMENT

SEC. 106. (a) The head of each Federal agency shall, in coordination with the Interagency Board established in title II of this Act, develop a needs assessment which will be conducted every five years to determine the actual needs and problems of the respective Indian tribes, tribal organizations, nontribal organizations, and individual Indian constituency eligible for the programs and services administered or authorized by law to be administered by the agency.

(b) The needs assessment for services and programs which are provided to or for the benefit of Indian tribes and their members, or Indian reservations or Indian organizations as an entity shall be stated for each Indian tribe or each reservation. The needs assessment for services and programs which are provided to nontribal Indian organizations or for the benefit of individual Indians shall be stated for each State to the extent practical and feasible with identification of the needs of the respective nontribal Indian organizations. Needs assessments which are not feasible to be stated on a tribal, reservation, or State basis shall be stated for the total service population on a nationwide basis. The needs assessment shall further identify which needs are recurring needs each year and which needs, if met, would not be recurring needs on an annual basis.

(c) A preliminary needs assessment shall be completed by July 30 of each year required and each agency shall immediately advise the respective tribes or other Indian service constituency of the agency's preliminary needs estimates so that they have an adequate opportunity for review and comment. Each Indian tribe or other Indian service constituency may draw up its own needs assessment on all or any of the subject areas encompassed in the agency needs assessment as it relates to its reservation or service population and such needs assessment shall be attached to the agency needs assessment at the request of the Indian tribe or other Indian service constituency and shall be made a part of the report required by this Act.

(d) Each agency head shall submit with the needs assessment the agency's projected funding levels for the coming fiscal years for each tribe or Indian reservation and each State for funding or services provided to nontribal Indian organizations or individual Indian constituencies for each program administered by the department which could be utilized by the eligible Indian constituency to meet the needs identified. This information shall also state what percentage of the unmet need such projected funding would meet during the coming fiscal year.

TITLE II—FEDERAL INTER-AGENCY COUNCIL ON INDIAN AFFAIRS

SEC. 201. (a) A Federal Inter-Agency Council on Indian Affairs (hereinafter referred to as the "Council") comprised of the head of each agency or his designee is hereby established. The Secretary of the Interior shall serve as Chairman of the Council. Notwithstanding any other provision of law, the Secretary of the Interior may not delegate this authority to other than an Under Secretary or an Assistant Secretary.

(b) The Council shall exercise the following responsibilities:

(1) Coordination in development and conduct of the needs assessment provided for in section 106 of title I, including:

(A) Development of a uniform needs assessment format, including standards to be used in conducting such assessments.

(B) A brief profile of each tribe or other Indian service constituency unit, including but not limited to—

(i) tribal enrollment and service population within each reservation, and outside of each reservation;

(ii) median income;

(iii) percentage of unemployment per year;

(iv) principal occupations;

(v) average life expectancy;

(vi) infant mortality rate;

(vii) leading causes of death;

(viii) educational attainment;

(iv) adequacy of housing; and

(x) adequacy of transportation.

(2) Development of a uniform format for submission of the data and information required from each Federal agency by this Act.

(3) Coordination of Federal policies between agencies concerning the eligibility of Indian tribes for Federal domestic assistance programs, development of adequate and current information dissemination procedures to tribes relative to such programs, recommendations to Congress concerning the need for remedial legislation to facilitate tribal participation in programs which could be of benefit to Indians.

(c) The Council shall assist in the development of interagency agreements, where appropriate, and facilitate funding of Indian projects pursuant to the Joint Funding Simplification Act of 1974 to the greatest extent feasible. The Council shall include in its annual report an identification of all such interagency agreements and all joint funding projects which were submitted and those consummated within the past fiscal year.

(d) The data and information to be compiled pursuant to this Act shall be submitted by the head of each Federal agency to the Chairman of the Council on or before October 31 of each year.

(e) The standards to be used in conducting the needs assessment, the needs assessment format, the tribal profile format, and the uniform format for submission of the other data and information required by this Act shall be developed in consultation with, and subject to the approval of, the committees and subcommittees of the Congress which have jurisdiction over Indian affairs.

SEC. 202. This title shall take effect upon the expiration of the sixty-day period following the date of the enactment of this Act.

Chairman **Abourezk.** I want to say that the hearings are for the purpose of taking testimony on annual report procedures which will enable the Congress to determine the expenditures and needs of agencies that deal with Indian tribes.

The first witness this morning will be Wayne Ducheneaux, who is vice chairman of the Council of Energy Resource Tribes. Wayne is chairman of the Cheyenne River Sioux Tribe in South Dakota. He is one of my constituents. I am very glad to see you here today.

STATEMENT OF WAYNE DUCHENEAUX, CHAIRMAN, CHEYENNE RIVER SIOUX TRIBE; AND VICE CHAIRMAN OF COUNCIL OF ENERGY RESOURCE TRIBES; ACCOMPANIED BY ELLEN BROWN AND ED GABRIEL

Mr. **Ducheneaux.** Thank you, Mr. Chairman.

Accompanying me today is Ellen Brown. She works with Mr. Gabriel over at the Council of Energy Resource Tribes. And you have met Mr. Gabriel.

Chairman **Abourezk.** I would like to welcome you to the committee.

Mr. **Ducheneaux.** Mr. Chairman, it is an honor to be here to present testimony on Senate bill 2712, the Needs Assessment Act.

It has been a problem for the tribes working with the Federal Government. The assistance provided to the tribes is not comprehensive in scope. There is no coordination among the departments on Indian affairs. The Department of Energy does not know what Interior is doing, and Interior does not know what Labor is doing.

This program is scattered all throughout the Federal Government. Sometimes the agencies themselves do not know what Indians are eligible for. As a result of this, a burden is placed on Indians, who have to run from agency to agency and sometimes educate the agency as to what the tribes are eligible for under their own programs.

It hinders the tribes. They sometimes do not get adequate funding. Sometimes they miss the boat altogether on some of the programs that they are eligible for. They have to stop and educate the agencies.

Additionally, there are many programs that the tribes are not eligible for—they are not eligible because of some legislative oversight by Congress or the department regulations.

There are 22 tribes in the CERT organization, the Council of Energy Resources Tribes. They got together to try to get some money to develop our natural resources and get control over our natural resources. In dealing with about five agencies, we were given the runaround and chased here and there. It took us 3 years to finally get a verbal OK from the White House that we were funded for this program.

It creates quite a problem for the tribes. It could be alleviated by the provisions of the bill.

We feel that there are a few problems with the bill, although we support the general concept of it.

There are some suggested changes that we would like to make in title I, section 106(d). We would like to see that expanded so that the agencies would be required to examine not only the adequacy of projected funding but whether or not its programs are adequate in terms of delivery mechanisms, flexibility, and scope.

Where programs are found to be lacking in any of these areas, agencies should be required to document whether this is due to legislative, regulatory, or administrative constraints. This is instead of just reporting the thing out to conference. Then we could get around some of the constraints that prevent the tribes from being funded or enjoying the services of the agencies that they are entitled to.

Section 105 would require the Bureau of Indian Affairs to provide Congress a comprehensive record of the status of Indian lands. Some Indian land is of uncertain status. In such cases, rather than asking the Bureau of Indian Affairs to determine and make a judgment on the status of these lands, it would be more appropriate to simply ask the Bureau to report acreage of uncertain status. This is rather than to decide that this piece of ground belongs here and that belongs there. Some of it is not all that cut and dry.

Finally, I think that the role of the Federal Interagency Council which would be established by title II should be strengthened in the following way: Each agency that participates should be given specific subcommittee responsibility to coordinate funding concerning projects in its area of responsibility.

In this way the Department of Energy would be given explicit authority to coordinate the program evaluations and assessment of other agencies in projects concerning energy development and use. The Department of Housing and Urban Development would have this authority for housing, and so on down the line. This would help the Council in its effectiveness and make it more of a working committee instead of a bureaucratic task force.

I would like to state once again my support for this bill. I hope the committee will give consideration to CERT's suggestions because we think it will help.

Thank you, Senator. I will be glad to answer any questions that I can.

Chairman **Abourezk**. Thank you very much, Mr. Ducheneaux.

I would like to ask the committee counsel to ask you a question or two on this legislation.

Mr. **Funke**. With regard to the Interagency Council: How do you think it should be strengthened to be more effective in dealing with the agency?

Mr. **Ducheneaux**. The CERT tribes have passed a resolution. It will be submitted for the record.

Chairman **Abourezk**. Without objection, your prepared statement and the resolution will be inserted into the record.

[The material follows:]

STATEMENT OF
WAYNE DUCHENEAUX, CHAIRMAN
CHEYENNE RIVER SIOUX TRIBE
VICE-CHAIRMAN
COUNCIL OF ENERGY RESOURCE TRIBES (CERT)
BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

APRIL 17, 1978

Mr. Chairman and other members of the Senate Select Committee on Indian Affairs, I would like to thank you for the opportunity to testify today on the "Indian Program Evaluation and Needs Assessment Act," introduced in the Senate by Senator Abourezk. This morning I would like to comment favorably on the bill and offer some suggestions for changes which would be of interest to Indian people.

Problem

It has been the experience of tribal governments that federal programs which provide assistance to tribes suffer from a number of maladies. They are often not comprehensive in scope, providing assistance for only a piece of a problem that requires a multidimentional solution. There is a lack of coordination among agencies that administer funds to tribes so that funding is often piecemeal. Due to this situation, a tribal need which requires a multidimentional approach often becomes impossible to address. As a result a burden is placed on tribal governments to use several agencies' programs to put together a package of assistance. They then must conform to a variety of regulations and procedures which often interferes with the potential success of the program. These circumstances place a considerable burden on the tribes both in terms of timely and adequate funding and in the amount of separate accounting and management functions required by each agency providing a separate grant.

Additionally, there are many federal programs which could provide needed assistance to tribal governments for which tribes are not eligible, often only because of oversight by either Congress or the agency. Other programs exist for which tribes are eligible but are difficult for tribes to use because of the special legal or economic status of the tribal governments.

A Recent Example

The CERT tribes recently experienced a situation which exemplifies the points I have just mentioned. In September 1975 the 22 tribes of CERT developed a proposal detailing the energy resource development needs of tribes and proposed a grant program to mitigate the problem. The proposal was submitted to five federal agencies for review and action. Not one agency denied a need for such a program or questioned it's effectiveness. Instead, the agencies gave an array of bureaucratic excuses, stating that they lacked authority for this specific project, or it was not within the thrust of their activities for the year, or that one of the other agencies had more authority for funding than they. These reasons were given in spite of the fact that 22 tribal Chairmen developed the proposal and stated that it was of priority concern to them. Finally, after two years of using their own time and money and through White House pressure the tribes received a contract (not a grant) from two of the agencies for approximately one third of the original request. The contract had to be written around an array of government restrictions and regulations to the point where the original request was substantially changed in purpose. Because of the tremendous need for the program the CERT tribes did not stop in their efforts to make the Federal government understand the need for this energy program. Through our efforts this spring the tribes brought six federal agencies together that have the mandates to address this problem, spent a substantial amount of time providing each agency with analyses, surveys and justifications, and finally, two and a half years later, through the efforts of the tribes to force coordination among the agencies, a proposal responding to the needs expressed by tribal governments was verbally approved. Although the current Administration is responding to the tribes in a timely fashion, three years were lost in the process.

Summary of the Problem

The tribes who belong to CERT want to use their energy resources as a means of developing healthy stable economies. This has not been the result of Indian resource development in the past. We feel that each tribe must fully manage and control the development of its own resources. In order to do this we require front end financial and technical assistance to enhance the management and technical capacity of each tribal staff. We find that there are no Federal programs which clearly address this need. The tribes are reduced to shopping from agency to agency and attempting to couch their very legitimate needs in this area in the phraseology of whatever programs each agency has to offer. The tribes are most frequently unsuccessful and the need goes unmet. In summary, the Federal government does not seem to have an understanding of the needs of the tribes nor has it developed a comprehensive response to meeting those needs.

Although my discussion thus far has centered on the need for the Federal government to coordinate programs and be more responsive to the legitimate needs of the tribes, the intent of these comments is not to advocate for the centralization of all Indian programs. On the contrary, I think that Indian programs, especially those of a highly technical nature, belong in the agency that has the expertise to understand the problem and which can provide guidance and assistance in the implementation of projects. My comments today are focused rather on the need for all agencies to fulfill their mandated commitments to tribal governments and to coordinate with their sister agencies so that programs can be cost effective, timely and responsive.

This bill would do just that; set up a mechanism which would force the Federal agencies to examine the needs of the tribes and to assess the adequacy of their programs to meet those needs. It would also encourage a comprehensive approach to meeting needs through interagency coordination and through joint funding.

Suggested Changes

I would now like to offer a few suggestions which I think would increase the effectiveness of the bill in meeting its proposed mission.

In ~~sec~~ title I of the bill I would like to suggest that Section 106 (d) be expanded so that the agencies would be required to examine not only the adequacy of projected funding but whether or not its programs are adequate in terms of delivery mechanism, flexibility and scope. Where programs are found to be lacking in any of these areas agencies should be required to document whether this is due to legislative, regulatory or administrative constraints.

Section 105 would require the Bureau of Indian Affairs to provide Congress a comprehensive record of the status of Indian lands. Some Indian land is of uncertain status. In such cases, rather than asking the Bureau of Indian Affairs to determine and make a judgement on the status of these lands, it would be more appropriate to simply ask the Bureau to report acreage of uncertain status.

Finally I think that the role of the Federal Interagency Council which would be established by Title II should be strenghtened in the following way. Each agency that participates under the DOI Interagency Council should be given specific subcommittee responsibility to coordinate funding concerning projects in its area of responsibility. In this way the Department of Energy would be given explicite authority to coordinate the program evaluations and assessment of other agencies in projects concerning energy development and use. The Department of Housing and Urban Development would have this authority for housing. And so forth. This would enhance the effectiveness of the Council to be more of a working committee rather than viewed as another bureaucratic task force.

In closing I would like to state, once again, my support for this bill. I hope that the Committee will give consideration to CERT's suggestions as I think they would enhance the bill's effectiveness. I hope that through this piece of legislation Federal programs can truly become responsive to the needs of Indian people.

Thank you.

I would be pleased to answer any questions you may have.

Council of Energy Resource Tribes

Resolution No. 78-1

Cabinet Level Policy Review Committee

WHEREAS, a number of different federal agencies are charged with the responsibility for and do administer programs and projects concerning Indian Energy resource development activities, and

WHEREAS, there has been a lack of coordination by federal agencies in reviewing and administering federal policies and programs affecting energy and Indian tribes, and

WHEREAS, there is a duplication of activites among different agencies because of a lack of coordination and communication, and

WHEREAS, due to a lack of coordination among the agencies and duplication of services, programs that should be considered and funded are not,

NOW THEREFORE BE IT RESOLVED by the Board of Directors of CERT that the Administration immediately establish a cabinet level committee to coordinate and review all policies and programs within the federal government.

BE IT FURTHER RESOLVED that this Committee have as its Chairman the Vice President, Secretary Schlesinger or Deputy Secretary O'Leary.

BE IT FURTHER RESOLVED that the Committee be comprised of the Secretary (or Director) of each agency responsible for developing and administering Indian energy programs and policies and that official delegates to the Committee's meetings be represented by no less than that of Assistant Secretaries (or Deputy Directors)

BE IT FURTHER RESOLVED tnat the Committee recognize CERT as its official non-federal advisory Group and work closely with CERT on all Indian energy matters.

Certificate

The undersigned Chairman and Secretary of CERT certified that the above resolution was adopted by the board of Directors of said Council at a meeting of said Board duly called, held, the 15th day of February, 1978.

Chairman

Secretary

Mr. **Ducheneaux**. The resolution would provide for a Council on Energy which would be chaired by the Vice President or Secretary Schlesinger or Assistant Secretary O'Leary.

Mr. **Funke**. Do you think that having one of those people at the head of this Federal Interagency Council would be better than having the Secretary of the Interior?

Mr. **Ducheneaux**. Yes; I think it would—for energy at least.

The Interagency Council could be chaired by someone out of the Vice President's office. The energy subcommittee of this would be chaired by the various secretaries.

Mr. **Funke**. Although the bill does not state it, it is contemplated that there would be various committees and subcommittees under the Interagency Council. Those committees would be chaired by whoever has the lead in the respective areas.

Thank you, Mr. Chairman.

Chairman **Abourezk**. I want to thank you very much for your appearance and your testimony.

The next witness this morning is Grace Olivarez, Director, Community Services Administration, Washington, D.C.

STATEMENT OF GRACIELA OLIVAREZ, DIRECTOR, COMMUNITY SERVICES ADMINISTRATION; ACCOMPANIED BY LUCILLE ECHOHAWK

Ms. **Olivarez**. Thank you, Mr. Chairman.

My associate is my special assistant, Lucille Echohawk.

I note that you said you did not want a lot of reading this morning, Mr. Chairman. Let me just highlight my prepared testimony for the record.

The Community Services Administration is the agency that was known as the Office of Economic Opportunity. The name changed in 1975. Since we took over, we have been doing a complete overhaul of the agency.

In the overhaul, we have discovered the lack of data needed to really design programs that would meet the needs of poor people. One of the things that we have discovered is being addressed by S. 2712, that is, the lack of data on American Indians. Whatever data exist are never reliable. At least not reliable to a point where we can utilize them effectively as a design or in the implementation of programs.

I do not think that I need to repeat the extent of poverty among American Indians, whether they are in rural or urban areas, on or off reservations. It continues to be the worst kind of poverty we have to face in our programs in the Community Services Administration.

What we have done since we came into office is to establish an Indian desk within the Community Services Administration. In order to establish the Indian desk, we have put together a task force. The task force worked quite diligently for several months. In this month of April, they finally gave us the design and the final recommendation on what the Indian desk should look like, how it should be staffed, and what its role and responsibilities should be.

We accepted that report. We expect to implement the recommendations on June 1. The reason we are waiting for June 1 is that we want to utilize special programs to be sure that that desk is staffed by Indians and not by people who will be learning what the problems of American Indians will be.

If this bill is enacted, CSA's mission to assist people in poverty would benefit mainly through the added impetus it will give to our Indian advocacy efforts. We anticipate it would reinforce our efforts to develop the skills and structures that are necessary to carry out our mandated responsibility and to carry out community-based needs assessment and program evaluation.

I think it would also reinforce our effort to insure an uninterrupted flow of information from the local program to the agency level, and to ensure community involvement in all phases of agency policy, planning, program development, and evaluation. It would alleviate the problem Indian tribes and communities face with the lack of opportunity to shape programs by which they are served.

In our administration no program is designed in Washington and then imposed on people at the local level. It works the other way around.

I would also like to add that access to timely and reliable data would enable the agency to target programs on support services and activities and meet critical needs of reservation, rural, and urban Indian people. In addition, as the advocacy agency for economically disadvantaged people, the capacity of CSA to share its skills and knowledge in community development will be facilitated.

I would just like to close by saying that we again extend our appreciation to this committee for giving us the opportunity to share our views and experiences in relation to S. 2712.

We will be watching the progress of this bill as it moves through the legislative process and reaffirm to this committee a willingness to share CSA's experience and insights as our agency moves toward more effective administration and monitoring of its program services to Indian people.

I do not profess to have all the answers, but I have a lot of opinions. I would be happy to share them with you.

Chairman **Abourezk**. Thank you very much for your testimony and for being brief.

Does the staff counsel have any questions he would like to ask?

Mr. **Funke**. Mr. Chairman, I do have some questions.

Do you have any specific problems or suggestions on how the bill might be improved?

Ms. **Olivarez**. I have just looked at the bill again. I do not see anything specifically.

I think I would want to reiterate Mr. Ducheneaux' comment about the Interagency Council. We have to be serious about it. The people who will be appointed to it must understand the responsibility of the Interagency Council and the role that they are supposed to play. If you are going to have an Interagency Council where half of its members show up for regular meetings, I just do not think it will work.

Mr. **Funke**. Do you have any suggestions on how it might be strengthened to insure accountability?

Ms. **Olivarez**. I think that the strengthening should be included in the wording of the bill so that we do not wind up with just another

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interagency group that sends substitutes and that nobody is going to have the enforcement powers.

Mr. **Funke**. Do you think there should be some enforcement mechanism and some additional accountability measures?

Ms. **Olivarez**. Let me put it this way. I understand it is not popular to put any kind of enforcement wording in any piece of legislation. On the other hand, I think we are wasting a lot of time and money and will be kidding ourselves if somebody is not given enforcement powers.

Mr. **Funke**. I agree with you.

Thank you, Mr. Chairman.

Chairman **Abourezk**. Senator Hatfield?

Senator **Hatfield**. As I look at the bill, a number of things strike me. One is the definition of needs assessment. How would you define that?

Ms. **Olivarez**. Needs assessment for the overall agency or for Indian people?

Senator **Hatfield**. For the Indian people.

Ms. **Olivarez**. I would like to have Lucille answer that because she worked on the task force and on the design and establishment of the Indian desk.

Ms. **Echohawk**. From the perspective of CSA's programs, the agency in its legislative mandate is very much interested to see the maximum feasible participation of the constituency which is served. I think this can take many different forms. I think that is part of the reason that reference in the bill is not specific as to what kind of needs assessment per se.

There are various requirements that are alluded to in the testimony. Our agency is looking at needs assessment kinds of requirements for our grantees in the action agencies and also community groups that come through demonstration programs. It will be a requirement. But, as to specifics of the needs assessment itself, I imagine we will continue to deal with that on a sort of program category-by-category basis.

Ms. **Olivarez**. And also through the establishment of a series of task forces. The task forces that will be part of our Indian desk—we are calling them Indian and Alaskan Native advisory task forces—will be divided into several functional areas. They will be selected by their own groups to sit on these task forces. They will have the responsibility of, on a periodic basis, looking at economic development programs in Indian communities, looking at health, education, and welfare as they relate to the programs that we administer.

An example is the senior opportunity services, which is an elderly program. Community nutrition, summer youth recreation, education, transportation, and housing needs are other examples.

Task forces would have the responsibility of giving us their view of what the needs are in the communities they represent. In addition to that, we have ongoing evaluation of programs that we fund. The evaluation will usually turn up whether or not we are meeting the needs as defined by the task forces.

Senator **Hatfield**. Yes; but the bill calls for every Federal agency to make an assessment of needs. I do not find that very definitive.

Ms. **Olivarez**. I am just speaking for my agency.

Senator **Hatfield**. I know; but the bill calls for all Federal agencies to make an assessment.

Ms. Olivarez. I do not think it is that complicated. I think every agency—if they have money set aside for Indian programs—ought to have a mechanism very similar——

Senator Hatfield. Well, that is not the qualification. You are adding a qualification: if they have an Indian program.

As I read the bill, it does not restrict it to those agencies that have Indian programs. It says all Federal agencies.

Possibly there are two things that ought to be considered. One is that we ought to have some definition of what we are talking about in terms of needs. That is an open-ended thing.

The second question I would like to ask you is this: Does this at all bother you that it is the agencies that are determining the Indian needs? Doesn't that run counter to Indian self-determination?

Ms. Olivarez. Definitely.

I do not like to set groups aside. I think we all should be included, but with Indians and migrants it just does not work. You have got to have some kind of legislative directive to be sure that you are reaching those groups. To say that an agency is supposed to serve everybody—we know by experience that Indians always fall by the wayside. There is never any concentrated effort to reach them in the specific areas to meet their specific problems.

Senator Hatfield. I know the author of the bill; I know what his intent is. It seems to me, as I look at the bill, we need to tighten up the language in order to make certain that we are not letting all these Federal agencies make these determinations on behalf and for Indians.

You say those agencies with programs will probably have a feedback or some kind of a cooperative task force arrangement.

Ms. Olivarez. We are the only ones that have it.

Senator Hatfield. I know that. That is why I am concerned that we don't just expand the kind of Federal decisionmaking imposed on the Indians. I know that is not the intent but, as I say, maybe we need to tighten up the language.

Second, I am not so sure that every agency has a direct relationship. Perhaps we ought to list at least the priority agencies that would carry out this assessment program.

Ms. Olivarez. In addition to that, I think the regional offices ought to be utilized a little bit more and have it as close to the needs as possible. We do have 10 regional offices. Each regional office ought to be required to have someone within the regional structure who represents the needs of Indian people that are closer to him than having this one person in Washington.

Senator Hatfield. That is a very good suggestion.

Thank you very much.

Senator Abourezk. Thank you very much. We appreciate your appearance.

Ms. Olivarez. Thank you, Senator.

Senator Abourezk. Without objection, your prepared statement will be inserted into the record.

[The prepared statement follows:]

TESTIMONY OF GRACIELA (GRACE) OLIVAREZ

DIRECTOR, COMMUNITY SERVICES ADMINISTRATION

BEFORE THE SENATE SELECT COMMITTEE

ON INDIAN AFFAIRS

ON S. 2712

APRIL 17, 1978

Mr. Chairman, I thank you for the opportunity to appear before this commitee.

CSA - the Federal Anti-Poverty Agency

As you know, the Community Services Administration (CSA) was established in 1974 as the successor agency to the Office of Economic Opportunity. (42 U.S.C. 2701 note). Since I assumed the duties as Director of CSA in April 1977, I have been reviewing and assessing the agency's renewed commitment to meet the needs of the Nation's poor. Ours is a mission unique in the Federal government, intricately interwoven with public, private, Federal, state and local efforts to deal with poverty. We seek to accomplish our mission through enabling low income families and individuals to become economically self-sufficient. The agency's programs provide economic and educational opportunities as well as financial support. These programs are tailored to the poor in both urban and rural communities. We recognize that our constituents are persons with distinctive needs and come from a variety of cultural and ethnic backgrounds.

As the Federal agency charged with primary responsibility for representing the needs and concerns of the nation's economically disadvantaged, we perceive CSA to have a central role to play in improving the quality and quantity of services presently available to American Indian people.

American Indians and Poverty

While current data on American Indians are limited and not always reliable, an examination of existing data resources points to a continuing pattern of poverty in most American Indian communities. Despite an increase in Federal services available to Indians since the 1960's, this pattern continues to dominate:

- In 1970 available data resources placed unemployment among Indians at ten times the national average.

- The number of reservation Indians with income falling below the poverty line was reported as eighty percent.[1]

- Four years later, during the enactment of the "Headstart, Economic Opportunity and Community Act of 1974", the House Report on the bill noted that "Eighty percent of reservation residents are poor. Approximately 75 percent of native Americans not living on reservations are poor."[2]

> According to current data provided by the Bureau of Indian Affairs, 48 percent of the Indians living on the reservation today are living below the poverty level. About 55 percent of all Indian housing on reservations is inadequate. And, before they complete sixth grade, approximately 58 percent of the Indian children on reservations will drop out of school.[3]

In short, the poverty of Indian people still manifests itself in the lack of adequate social support services and viable community economic institutions.

While the Federal funds directed for the benefit of Indian people are gradually impacting on the communities receiving them, the problem of isolation from existing service delivery systems continues to adversely affect both rural and urban Indians. In reservation and rural areas, services are often not in close enough physical proximity to be accessible to Indian people. In urban areas, the lack of information on availability of services and how to tap into them has a comparable isolating effect on urban Indians. As a result, the potential benefits of existing programs are not presently maximized for Indian people.

How CSA Is Responding to the Concerns Raised Above

In keeping with the spirit of the Economic Opportunity Act of 1964 as amended, CSA has made a renewed committment to facilitate maximum feasible participation of the poor in the planning, implementation and evaluation of programs affecting them. Therefore, efforts have been initiated to define an on-going role for communities in CSA's policy formulation processes.

In the Fall of 1977 we took the first step to implement this on-going process. We had a series of ten Public Policy Forums, one in each Federal Region. Nearly seven hundred individuals -- most of them poor people -- participated in the forums and voiced their concerns. Testimony at these forums specifically relating to the concerns of Indian people highlighted issues CSA must address if it is to improve its response to Indian community needs. For example; Indian testimony pointed out that Indians and migrants were the constituent groups most under served, unrecognized and unresponded to by the Federal establishment including CSA, and that CSA must recognize the sovereignty of tribal governments and the special relationship of Indians to the U.S. Government.

Shortly after arriving at CSA it became evident to me that the agency's response to the Indian constituency needed better focus and increased emphasis. Planning activities for establishment of an "Indian Desk" to provide that focus and advocate for increased program emphasis included the convening of a task force of Indian people to make recommendations for the functioning of that "Desk". After soliciting review and comment from the field on a draft proposal, the task force presented its final recommendations to CSA on April 6, 1978. I concur with the funcitions and responsibilities of the "Desk" as outlined in the recommendations:

1. Review and recommend CSA policy and program development, implementation and review within all offices.
2. Review and analyze CSA legislation and regulations for needed changes.
3. Develop and coordinate relationships between federal agencies (interagency agreements, joint funding, etc.)
4. Measure and evaluate the impact and effectiveness of poverty and poverty-related programs pursuant to Title IX of the Economic Opportunity Act of 1964, as amended.

With this Desk CSA intends to provide continuity and coherence in our efforts to address poverty issues in Indian America and also to become an informed and effective advocate within the federal structure in their behalf.

Over the past ten months, CSA has also been carefully reviewing all phases of its delivery of services to economically disadvantaged communities in general. This self-study has enabled the agency to initiate changes in program administration and implementation that will improve the quality of services it presently provides and identify gaps in its service delivery system. Among the changes we have initiated are the following:

(1) Improved Needs Assessment Procedures:

Recognizing the key role that local communities play in effective programs, the Agency is revising its needs assessment procedures to ensure community input in defining project goals. This should enable CSA to determine whether or not Indian people in proposed project areas are afforded an opportunity to participate in project planning and implementation.

(2) Grantee Information System:

In addition, to ensure the accountability of programs in managing their funds and meeting their proposed service goals, a grantee information system is being

> developed to assist the agency in its advocacy and managment functions. The system will utilize and track information on all agency programs and recipients in order to provide planning, operational and evaluation information.

This change should enable the agency to verify whether grants that propose to benefit Indians within the project population actually consult with Indian people and serve them during the grant cycle.

S. 2712 and CSA

If this bill is enacted, CSA's mission to assist people in poverty would benefit mainly through the added impetus it will give to Indian advocacy efforts. We anticipate it would reinforce our efforts to develop the skills and structures necessary to carry out community-based needs assessment and program evaluation. It would also reinforce our effort to ensure an uninterrupted flow of information from the local program to the agency level, and to ensure community involvement in all phases of agency policy, planning, program development, and evaluation. It would help to alleviate the problem Indian tribes and communities face with the lack of opportunity to shape the programs by which they are served. In short, the concept embodied in this legislation and its emphasis on the Federal policy of Indian self-determination coupled with CSA's legislative mandate, would enable CSA to carry out its assessment and evaluation function with maximum feasible Indian participation.

CSA is particularly pleased to see provision in the bill for development of interagency coordination of data resources. As a small agency, we would be better equipped to handle a growing workload in program planning and implementation if we had ready access to current, reliable data. In addition, through the types of data collection this bill proposes, CSA will be in a better position to target funds more equitably and to ensure that some communities do not tap multiple sources of funding for a particular purpose while other communities with equally critical needs are by-passed in the funding process. This would prove to be an important tool to CSA as it reviews the operation of its programs in an effort to ensure that benefits reach Indian people in need. Access to timely, reliable data would enable the agency to target program funds into services and activities that meet critical needs of reservation, rural and urban Indian people. In addition, as the advocacy agency for economically disadvantaged people, the capacity of CSA to share its skills and knowledge in community development will be facilitated.

For more than a decade, through this agency's efforts on behalf of poor people we have developed an extensive network of community action agencies and community development corporations, some of which are located in Indian communities. It was in this agency that the Native American Program

-now in HEW- originated in order to assist various Indian groups. We have seen highly promising projects receive ample funding and yield limited results, while some small with minimal funding take root and develop into viable service entities. Our experience over the years has made us more sensitive to differing community needs. We have come to recognize that our services must be responsive to the distinctive needs of geographic regions and ethnic communities as well as urban and rural populations.

In reorganizing CSA and redefining its objectives, we have come to realize that all of this information, experience, and insight which we presently tap into an informal basis must be organized in a manner that ensures coordinated, consistent access. If we are to address the complex and diverse needs of Indian people, our staff must be freed from past practices of piecing together basic needs data. With such data readily available, our staff could work towards providing creative, forward-thinking program alternatives to Indian people. When we are in a position to exploit the collective knowledge in how to create a climate conducive to project implementation; how to provide for viable service systems; and how to develop working relationships between local communities and tribal, county, state, and federal governments, our ability to respond effectively and expeditiously to the needs of Indian people will be enhanced.

The establishment of the Indian Desk within CSA is the first step towards meeting this goal.

In closing, we again extend our appreciation to this committee for giving us this opportunity to share our views and experiences in relation to S. 2712.

We will be watching the progress of this bill as it moves through the legislative process and reaffirm to this committee a willingness to share CSA's experience and insights as our agency moves towards more effective administration and monitoring of its program services to Indian people.

FOOTNOTES

1. 1974 U.S.C.C.A.N.
   Vol 2, p. 2880: Legislative History of the "Indian Financing Act of 1974"

2. 1874 U.S.C.C.A.N.
   Vol. 4, p. 8059: Legislative History of the "Headstart, Economic Development and Community Partnership Act of 1974"

3. "Indian and Native American Programs; Fiscal Year 1976 Annual Report" Report of Department of Labor, Division of Employment and Training, p. 3.

Chairman **Abourezk**. Our next witness is George Waters, congressional liaison, and Georgiana Tiger, education specialist, National Congress of American Indians. Mr. Fritz Brown will be with them. He is president of the Quechan Tribe, Fort Yuma, Ariz.

We would like to welcome you all to the committee. Please proceed.

STATEMENT OF FRITZ BROWN, CHAIRMAN, FORT YUMA RESERVATION, REPRESENTING THE NATIONAL CONGRESS OF AMERICAN INDIANS; ACCOMPANIED BY GEORGE WATERS, CONGRESSIONAL LIAISON, AND GEORGIANA TIGER, EDUCATION SPECIALIST, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. **Brown**. Thank you, Mr. Chairman. I am here in place of Veronica Murdock.

My name is Fritz Brown. I am the chairman of the Fort Yuma Reservation, representing the National Congress of American Indians which represents over 140 Indian tribes across the country. I appreciate the opportunity to appear before this committee and to give strong support for this much needed legislation.

The lack of accurate and credible information on how the various Federal departments and agencies evaluate needs and then appropriate moneys on Indian programs is a situation that has led to neglect and haphazard spending on the part of these agencies. The tribes, at no fault of their own, have as usual ended up bearing the brunt of bureaucratic mismanagement. We see this bill as a method to help straighten out fiscal mismanagement in the Government and therefore endorse it heavily.

The three most important segments of S. 2712 are: (*a*) the annual report to Congress on expenditures of Indian moneys by all Federal agencies; (*b*) the needs assessment section; and, (*c*) the catalog of Indian land holdings section. I shall address the concept of the Federal Interagency Council later in this testimony.

NCAI considers the annual report concept to be well founded and has been supportive of that idea for some time now. At the 34th annual convention of our organization last year in Dallas, Tex., the delegates unanimously adopted the following brief resolution:

POLICY RESOLUTION NO. 3: FEDERAL INDIAN PROGRAM ACCOUNTABILITY; ADOPTED SEPTEMBER 22, 1977

Whereas accurate, thorough and organized information about Indian matters, such as treaties, agreements, Executive Orders and timely statistics relating to Indian land, population, government, health, welfare, education and housing, is not easily available or made public by the Federal Government on a regular basis; and

Whereas the American Indian Policy Review Commission recommended a comprehensive, annual report on the above and other matters relating to Indians to be published for Congress and Indian people by the agency specifically responsible for Indian affairs: Now Be It

Resolved, That the National Congress of American Indians supports enactment of legislation requiring the Secretary of the Interior and the Assistant Secretary for Indian Affairs to collect, analyze, verify and organize all information relevant to their service to the Indian people throughout the entire United States and requiring that the Secretary and the Assistant Secretary publish this information each year to Congress and the Indian community.

Recent studies, including a GAO report entitled "More Effective Controls Over BIA Administrative Costs Are Needed," dated

February 15, 1978, are proving that mismanagement of Indian money is not uncommon. This report stated that over $170 million a year is spent by the BIA on administrative costs, a figure which by some studies is as much as 90 percent of the total budget in certain area offices. This report showed that the Bureau has not been honest with Congress when describing administrative expenditures.

The GAO report also stated that program money earmarked for the tribes was instead subverted for administrative cost. I am quite certain that this predicament is not unique to the BIA. The U.S. Congress and the Indian people must be able to assess how Indian moneys are spent on a yearly basis. Otherwise there is no sound procedure for concerned parties to evaluate whether these appropriations are being spent effectively and correctly. Although these annual reports could show misspending tendencies we are still looking at them in a positive manner in that their potential benefits would far outweigh the temporary setback they might indicate has occurred.

We believe that information to be reported is necessary for planning programs and appropriations responsive to the needs of Indians and Alaskan Natives. Any agency that would oppose this annual report concept for fear of criticism over how they did or did not spend appropriations certainly could not have the needs of Indians and Alaskan Natives at heart.

A goal of the present administration is to make this country's government more effective and efficient. These annual reports would certainly be a catalyst for such plans; therefore, we would hope the administration and especially the Office of Management and Budget will give support to this bill.

This bill would also be in line with the President's plan to have the legislative and executive branches of Government work in harmony with each other and would even go one step further because it would bring the executive branch in concert with the legislative branch and increase communications on a variety of levels.

Another example of the need for accurate, uncensored annual expenditure reports can be found in a recent GAO report on Indian housing, dated March 31, 1978, which found that, despite the fact that the Government built 27,000 new homes on Indian reservations between 1970 and 1976, 23,000 more Indian families were living in substandard housing in 1976 than there were in 1970.

One does not need a degree in fiscal economics to figure out that this housing money was spent unwisely. All this points out the need for agencies that have Indian programs to put a stronger emphasis on those programs and for Congress to have reliable data on Indian socioeconomic needs.

The section of this bill that we most strongly endorse and applaud is the needs assessment segment. One would assume that Indian programs are funded on the basis of need and long-term planning, but in reality this simply is not how it works.

OMB bases its budget request on a long-range incremental percentage formula, which is a system that cannot accurately reflect needs. Congress never gets to see what the real needs are, only what they are presented with via OMB. Indian Health Service has relatively no long-term planning or needs assessment. Recent allegations against IHS have stated that Indian health care facilities are usually built at the request of a Congressman who wants one in his district. Indian health statistics will never improve if that is the method in which health care facilities are built.

According to the GAO, the BIA is crisis- or reaction-oriented and because of this, there is little long-range planning. A Federal Indian domestic assistance program report showed that Indians take advantage of only a fraction of the possible programs that are available to them.

The above-mentioned examples show that need planning is essential in Indian programs. This section of the bill would require every Federal agency with Indian programs in it to develop a needs assessment plan every 5 years, and this is what the funding arm of the agencies would use when appropriating money to specific areas. This needs assessment at the agency level would also encourage tribes to do comprehensive planning for thir own reservations or areas.

If the BIA area director's offices would become more technical-assistance oriented, they could be an asset to the tribes when the tribes were doing their own needs assessment and planning. Agencies have been more responsive, and more interagency services have been made available to tribes that presently are involved in long-range planning because they can see the impact and interrelation of spending and taking care of needs.

Every year at this time the amount of Indians in Washington doubles temporarily. It is not because of the budding cherry blossoms but because there is a mad rush for supplemental appropriations to Indian programs which were not funded adequately. Proper needs planning would certainly help alleviate this phenomenon. Supplementals are also not in line with OMB desires, so there is a constant conflict in that regard. Needs assessment offers a system to address these problems, and we encourage its enactment as quickly as possible.

We heartily endorse section 105 of this bill, which will require the BIA to provide a comprehensive record of Indian land holdings. It goes without saying that if Indian people and the Federal agencies do not know how much land and the status of that land that Indian people are connected with, funding—especially agricultural assistance—is not going to be feasible.

Recent evidence indicates that, despite the fact that many whites think that the Indian people are trying to get the whole country back, Indian land holdings are still lessening. If this is true then it is further evidence that the Department of the Interior is failing in its capacity as trustee over Indian lands. We would recommend that this record be updated every 5 years also.

We find this bill to be an excellent one; however, we do see some minor problems with S. 2712 in its present form and encourage the committee to consider them.

Our first concern is there is no appropriation money to implement this act. While it is our understanding that most agencies have the capabilities within their existing structures to implement the bill's mandates without requiring additional manpower or money, there is little evidence that this can be realistically achieved throughout agencies.

Our pessimism stems from ongoing experiences with bureaucracies which, in direct violation of existing legislation, are continuously unable to fulfill the mandates of law. This compounds the frustration of the tribes who are already too often victims of an agency unresponsive in carrying out its obligations. We would hate to see this become another example of program costs being diverted away from the tribes to carry out the provisions of this bill.

We are also concerned that information contained in the annual report section, and in the land holding section of this bill, could run contrary to the commendable philosophy of S. 2773, the Indian Trust Information Protection Act of 1978.

We feel that the language in this bill, which mandates that the tribes needs assessments reports accompany corresponding agency reports, is good but we want to go on record as insisting that the tribes reports be considered the primary and not the secondary or accompanying needs evaluations for congressional consideration.

Indian tribes, more than any agency or branch of the Government, know what their needs are. We cannot have the agencies telling the tribes what tribal needs are. The tribes should have a direct input into what the agencies consider the tribes needs to be and should also have this direct input when the agencies write their reports. Tribal needs assessment reports should also be seen by congressional appropriating committees, not just local agency and central agency reports.

We are also wondering what the milestones are for the effectiveness of this bill. Agencies in the past have ignored mandates similar to this and we would hate to see this negligence happen here. Biannual status reports might be a method in which to insure agency accountability and adherence.

Our final concern is with the Federal Interagency Council on Indian Affairs concept. While we applaud the idea, we again do not see evidence or precedent that these very needed mandates can be realistically fulfilled without full-time staff and an operational budget. While this needs assessment and report data is required only every 5 years, its production would require an ongoing budget.

Mr. Chairman, this concludes my testimony. I would again like to state NCAI's strong support for this bill and commend you and your staff for the work that went into it. NCAI will be pleased to work with your committee on insuring the implementation of S. 2712. I will at this time be pleased to try to answer any questions that you may have.

Thank you.

Chairman ABOUREZK. Thank you. The staff counsel has a question for you.

Mr. FUNKE. You mentioned that the mandate of the law would be carried out. I assume you are speaking in reference to the Federal Interagency Council. Do you have any ideas on how that might be strengthened to insure the intent of the law is carried out?

Mr. BROWN. I think George Waters can answer that.

Mr. WATERS. One possibility would be biannual status reports. I think, if that report gets printed every 5 years, it could get sprung on this committee or on the appropriations committee as surprisingly as the BIA reorganization report was.

If it were biannual, I think that would insure compliance.

Mr. FUNKE. You stated that you are aware of some conflicts between this bill and the trust information. I notice your testimony did not specify what your views are with regard to what should be included in this bill in the annual report and what should be protected by the Trust Information Act.

I am wondering if you could do an analysis from your perspective and provide the committee with what your recommendations are in terms of what information should come out of this bill or come out of the trust information bill?

Mr. **Waters**. We would be willing to work with the committee to do that. I do not think we could do it right now.

The reason we did not get specific is that we had been advised that the committee was aware of this concern and that possible amendments during markup would be coming. We just wanted to state that we are in agreement on this problem.

Mr. **Funke**. Thank you, Mr. Chairman.

Chairman **Abourezk**. Thank you for your appearance and your testimony.

Your prepared statement will be entered in the record.

[Mr. Brown's prepared statement follows:]

Testimony of the National Congress of American Indians on S.2712, the Indian Program Evaluation and Needs Assessment Act, before The Senate Select Committee on Indian Affairs, April 17, 1978.

Mr. Chairman, my name is Fritz Brown, I am the Chairman of the Fort Yuma Reservation and am here representing the National Congress of American Indians (NCAI) with a membership of 144 Indian Tribes across the country. I appreciate the opportunity to appear before this committee and to give our strong support for this much needed legislation.

The lack of accurate and credible information on how the various federal departments and agencies evaluate needs and request appropriations on Indian programs is a situation that has perpetuated neglect and haphazard spending on the part of these agencies. The tribes, at no fault of their own, have as usual, ended up bearing the brunt of bureaucratic mismanagement. We see this bill as a method to help straighten out fiscal mismanagement in the government and therefore endorse it heavily.

The three most important segments of S.2712 are a) the annual report to Congress on expenditures of Indian monies by all federal agencies, b) the needs assessment section and, c) the catalogue of Indian land holdings section. I shall address the concept of the Federal Interagency Council later in this testimony.

NCAI considers the annual report concept to be well founded and has been supportive of that idea for some time now. At the 34th Annual Convention of our organization last year in Dallas, Texas the delegates unanimously adopted the following brief resolution:

Policy Resolution No. 3
FEDERAL INDIAN PROGRAM ACCOUNTABILITY
Adopted September 22, 1977

WHEREAS: Accurate, thorough and organized information about Indian matters, such as treaties, agreements, Executive Orders and timely statistics relating to Indian land, population, government, health, welfare, education and housing, is not easily available or made public by the federal government on a regular basis, and

WHEREAS: The American Indian Policy Review Commission recommended a comprehensive, annual report on the above and other matters, relating to Indians to be published for Congress and Indian people by the agency specifically responsible for Indian affairs.

NOW BE IT RESOLVED that the National Congress of American Indians supports enactment of legislation requiring the Secretary of the Interior and the Assistant Secretary for Indian Affairs to collect, analyze, verify and consider all information relevant to their service to the Indian people throughout the entire United States and requiring that the Secretary and the Assistant Secretary publish this information each year to Congress and the Indian community.

Recent studies, including a February 15, 1978 GAO report entitled, "More Effective Controls Over B.I.A. Administrative Costs Are Needed" indicates that mismanagement of Indian money is ndt uncommon. This report stated that over $170 million a year is spent bt the B.I.A. on administrative costs, a figure which by some studies is as much as 90% of the total budget in certain area offices. The GAO report also indicates that some program monies earmarked for Tribes ~~is~~ are subverted for administrative costs.

The United States Congress and the Indian people must be able to assess how Indian monies are spent on a yearly basis; otherwise, there is no sound basis for concerned parties to evaluate whether these appropriations are being spent effectively and correctly. Hopefully these annual reports will show all misspending tendencies; however, we are looking at them in a positive manner. We believe that information to be reported is necessary for planning programs and appropriations responsive to the needs of Indians and Alaskan Natives. Any agency that would oppose this annual report concept for fear of criticism over how they did or did not spend appropriations certainly could not have needs of Indians and Alaskan Natives at heart. A goal of the present administration is to make this country's government more effective and efficient. These annual reports would certainly be a catalyst for such plans; therefore, we would hope the Administration and especially the Office of Management and Budget will give support to this bill. This bill would also be in line with the President's plan to have the administrative ~~and executive~~ branch~~es~~ of government work in harmony within itself ~~with each other~~ and would even go one step further;because, it would bring the executive branch in concert with the legislative branch and increase communication on a variety of levels.

Another example of the need for accurate, uncensored annual expenditure reports can be found in a recent GAO report on Indian housing, dated 3/31/78, which found that despite the fact that the government built 27,000 new homes on Indian reservations between 1970 and 1976, 23,000 more Indian families were living in substandard housing in 1976 than there were in 1970. This points out the need for agencies to put stronger emphasis on Indian programs where needed and for Congress to have reliable data on Indian socio-economic needs.

The section of this bill that we most strongly endorse and applaud is the needs assessment segment. One could assume that Indian programs are funded on the basis of need and long term planning, but in reality this is not how it works. OMB bases its budget request on a long range incremental percentage formula which is a system that cannot accurately reflect needs. Congress never gets to see what the real needs are, only what they are presented with via OMB. Recent allegations against IHS have stated that Indian health care facilities are usually built at the request of a Congressman who wants one in his district. Indian health statistics will never improve if that is the method in which health care facilities are built. According to the GAO, the BIA is crisis or reaction oriented and because of this there is little long range planning. A Federal Indian Domestic Assistance Program report showed that Indians take advantage of only a fraction of the possible programs that are available to them. The above mentioned examples show that need planning is essential in Indian programs.

This section of the bill would require every federal agency with Indian programs in it to develop a need assessment plan every five years and hopefully this is what the funding arm of the agencies would use when appropriating money to specific areas. This needs assessment at the agency level would also encourage tribes to do comprehensive planning for their own reservations or areas. If the BIA Area Director's offices would become more technical assistance oriented they could be an asset to the tribes when the tribes were doing their own needs assessment and planning. Agencies have been more responsive and more interagency services have been made available to tribes that presently are involved in long range planning because they can see the impact and inter-relation of spending and taking care of needs. Every year at this time the amount of Indians in Washington doubles temporarily. It is not because of the budding cherry blossoms but because there is a mad rush for supplemental appropriations to Indian programs which were not funded adequately. Proper needs planning would certainly help alleviate this phenomenon. Supplementals are also not in line with OMB desires so there is a constant conflict in that regard. Needs assessment offers a system to address these problems and we encourage its enactment as quickly as possible.

We heartily endorse Section 105 of this bill, which will require the BIA to provide a comprehensive record of Indian land holdings. It goes without saying that if Indian people and the federal agencies don't know how much land, and the status of that land, that Indian people are connected with, funding related to agricultural assistance, is going to be guesswork. Recent evidence indicates that, despite the fact that many non-Indians think that the Indian people are trying to get the whole country back, Indian land holdings are still lessening. If this is true then it is further evidence that the Department of the Interior is failing in its capacity as trustee over Indian lands. We would recommend that this record be updated every five years also.

We find this bill to be an excellent one, however, we do see some minor problems with S.2712 in its present form and encourage the committee to consider them.

Our first concern is there is no appropriation money to implement this act. While it is our understanding that most agencies have the capabilitie within their existing structures to implement the bills mandates without requiring additional manpower or money, there is little evidence that this can be realistically achieved throughout agencies. Our pessimism stems from ongoing experiences with bureaucracies which, in direct violation to existing legislation are continually unable to fulfill the mandates of law. This compounds the frustration of the tribes who are already too often victims of an agency, unresponsive in carrying out its obligations. We would hate to see this become another example of program costs being diverted away from the tribes to carry out the provisions of this bill.

We are also concerned that information contained in the annual report section and in the land holding section of this bill could run contrary to the commendable philosophy of S.2773, the Indian Trust Information Protection Act of 1978.

We feel that the language in this bill which mandates that the tribes needs assessments reports accompany corresponding agency reports is good but we want to go on record as insisting that the tribes reports be considered the primary, and not the secondary or accompanying needs evaluations for Congressional consideration. Indian tribes more than any agency or branch of the government know what their needs are. We can not have the agencies "telling" the tribes what tribal needs are. The tribes should have direct input into what the agencies consider the tribes needs to be and should also have this direct input when the agencies write their reports. Tribal needs assessment reports should also be seen by Congressional appropriating committees as well as the local agency and central agency reports.

We are also wondering what the milestones are for the effectiveness of this bill. Agencies in the past have ignored mandates similar to this and we would hate to see this negligence happen here. Biannual status reports might be a method in which to ensure agency accountability and adherence.

Our final concern is with the Federal Interagency Council on Indian Affairs concept. While we applaud the idea, we again do not see evidence or precedent that these very needed mandates can be realistically fulfilled without full-time staff and an operational budget. While this needs assessment and report data is required only once every five years, its production would require an ongoing budget.

Mr. Chairman, this concludes my testimony. I would again like to state NCAI's strong support for this bill and commend you and your staff for the work that went into it. NCAI will be pleased to work with your committee on insuring the implementation of S.2712. I will at this time be pleased to answer any questions you may have.

LEGISLATION COMMITTEE

Policy Resolution No.1
SUPPORT FOR H.R. 4089 - FEDERAL TAX EXEMPTION FOR INDIAN TRIBES
Adopted September 22, 1977

WHEREAS: H.R. 4089, the Tribal Governmental Tax Status Act, provides that Indian tribal governments shall be treated as other units of government with respect to certain federal tax provisions; and

WHEREAS: H.R. 4089 proposes that in order for tribes to be leigible under the bill they must perform substantial governmental functions; and

WHEREAS: H.R. 4089 provides, as to eligible tribes, among other things,

a) that a person may claim federal income tax credit for contributions to candidates for tribal offices

b) that interest earned on long-term obligations issued by tribes shall be exempt from income tax

c) that taxes paid to a tribal government may be deducted from federal income tax

d) that charitable contributions to tribal governments can be deducted for federal income, estate, and gift tax purposes, and

e) that tribal goverments are exempt from a variety of federal excise taxes, including communications, retailer, and manufacturores taxes; and

WHEREAS: these tax benefits and treatments are vital to the orderly, expeditious economic development of tribal human and economic resources; and

WHEREAS: elementary justice dictates that Indian tribal governments should be treated as non-Indian units of governments in this regard; and

WHEREAS: while the Internal Revenue Service may not agree, Indian tribes already have a right under existing law to these federal tax credits and exemptions;

NOW THEREFORE BE IT RESOLVED, by the National Congress of American Indians that the NCAI strongly supports the enactment of H.R. 4089 into law; and

BE IT FURTHER RESOLVED, that the officers and employees of the NCAI be directed to take all necessary steps to secure enactment of H.R. 4089 and that this resolution be brought to the attention of the appropriate committees of the Congress and appropriate offices of the Executive Branch.

LEGISLATION COMMITTEE

Policy Resolution No.2
S. 2046, A BILL TO CONSOLIDATE ALASKAN NATIVE TRIBES
Adopted September 22, 1977

WHEREAS: a stated purpose of P.L. 93-638, the Indian Self-Determination and Education Assistance Act, is to provide for increasing Indian and Alaska Native control of federal programs designed to benefit them; and

WHEREAS: the Area Director's implementation of P.L. 93-638 has stymied the goal of Indian self-determination in Alaska; and

WHEREAS: because P.L. 93-638 effectively recognizes about 500 Indian tribes in Alaska, including the village and regional corporations created pursuant to the Alaska Native Claims Settlement Act, it has effectively allowed the BIA Area Director considreable discretion to determine what group is an Indian tribe in Alaska and who may contract and receive grants under P.L. 93-638; and

WHEREAS: this BIA policy of implementing P.L. 93-638 has increased, rather then decreased, the power of the BIA over Alaska Native Affairs; and

WHEREAS: this BIA policy has been accomplished through the tribal consent provision of P.L. 93-638, whereby the Area Director has determined that in order for a regional association to contract as a tribe it must receive the affirmative consent of each and every eligible Indian tribe within its jurisdiction; and

WHEREAS: this has created an onerous and large financial burder on Alaska Native regional associations who wish to contract or receive grants, and

WHEREAS: all parties, including the BIA, agree that it will be impossible to implement P.L. 93-638 for 500 eligible entities in Alaska; and

WHEREAS: regardless of BIA intent, its policy of emplementing P.L. 93-638 in Alaska has and will continue to undermine the political authority of Alaska Native tribes; and

WHEREAS: as a consequence of this BIA policy, the Alaska Natives have proposed legislation which would clarify who is an Indian tribe in Alaska for the purposes of the implementation of P.L. 93-638 and all other federal legislation which benefits Alaska Natives; and

WHEREAS: S. 2046 would allow a process to create Alaska Native Regional tribes, at their option, with the same legal standing as tribes in the 48 states; and

WHEREAS: the bill provides adequate provisions to continue recognition of existing reservtions and jurisdictional acts in Alaska.

THEREFORE BE IT RESOLVED, that the National Congress of American Indians supports the concepts contained in S.2046 and recommends that it be one of the priorities of the Senate Select Committee on Indian Affairs during the remainder of the 95th Congress.

LEGISLATION COMMITTEE

Policy Resolution No.3
FEDERAL INDIAN PROGRAM ACCOUNTABILITY
Adopted September 22, 1977

WHEREAS: Accurate, thorough and organized information about Indian matters, such as treaties, agreements, Executive Orders and timely statistics relating to Indian land, population, government, health, welfare, education and housing, is not easily available or made public by the federal government on a regular basis; and

WHEREAS: the American Indian Policy Review Commission recommended a comprehensive, annual report on the above and other matters, relating to Indians to be published for Congress and Indian people by the agency specifically responsible for Indian affairs;

NOW BE IT RESOLVED that the National Congress of American Indians supports enactment of legislation requiring the Secretary of the Interior and the Assistant Secretary for Indian Affairs to collect, analyse, verify and organise all information relevant to their service to the Indian people throughout the entire United States and requiring that the Secretary and the Assistant Secretary publish this information each year to Congress and the Indian community.

LEGISLATION COMMITTEE

Policy Resolution No.4
ON THE REVISION OF TITLE 25 OF THE UNITED STATES CODE
Adopted September 22, 1977

WHEREAS: Title 25 of the United States Code is disorganized and contains laws which are obsolete, inconsistent, duplicative, unclear and in conflict with current federal policy; and

WHEREAS: this confused state of the law and the disorganization of Title 25 has cuased uncertainty among Indian people, federal agencies, lawyers, and the courts; and has impeded the orderly development of Indian law; and

WHEREAS: this uncertainty has resulted in thousands of unnecessary administrative and legal disputes and, consequently, Indian people have been denied their legal rights and forced to pursue costly ligigation, resulting in excessive and unnecessary expenditure of thousands of hours every year by the Indian people, federal agencies, tribal attorneys and judges; and

WHEREAS: Task Force Number Nine of the American Indian Policy Reivew Commission has substantially revised, consolidated and developed a new, concise codification of Title 25 of the U.S. Code; and

WHEREAS: the Senate Select Committee on Indian Affairs is further revising Title 25 for purposes of enacting it into law;

NOW THEREFORE, BE IT RESOLVED, by the National Congress of American Indians in General Assembly that the NCAI strongly supports as a matter of highest priority the enactment of a revised and consolidated Title 25 of the U.S. Code.

LEGISLATION COMMITTEE

Policy Resolution No.5
AMENDMENT ON P.L. 93-638
Adopted September 22, 1977

WHEREAS: The Indian Self-Determination and Education Assistance Act (P.L. 93-638) was passed by Congress for the purpose of facilitating transfer of control over Bureau of Indian Affairs and Indian Health Services to Indian tribes and tribal organizations through the contract process;

WHEREAS: A corallory purpose of P.L. 93-638 was to bring about a basic change in the organization and structure of the Bureau of Indian Affairs and Indian Health Services in their relations with Indian tribes; and

WHEREAS: Oversight hearings before the Senate Select Committee revealed that Indian tribes have encountered serious difficulties in the implementation of 93-638 in the following areas. (1) The process of contracting has discouraged Indian tribes from assuming control over Bureau of Indian Affairs and Indian Health Services because of the inordinate amount of bureaucratic forms and red tape associated with contracting.

(2) The Self-Determination Act has resulted in only minimal change in the organization and structure of the Bureau of Indian Affairs and Indian Health Services but rather, the charges are constantly made that the Bureau of Indian Affairs has attempted to make P.L. 93-638 simply another Bureau of Indian Affairs program.

(3) A consistent lack of flexibility in the type of services which are available for contracting and the nature of the services that are subject to contracts have proved to be seriously limiting.

(4) The funding levels identified as available for contracting are too often less than the Bureau of Indian Affairs' own levels and tribes are penalized with costs associated with contracting.

WHEREAS: Amending P.L. 93-638 to provide for a system of consolidated block grants in lieu of contracts for each individual Bureau of Indian Affairs or Indian Health Service program along with a restriction on administrative review and interference, and providing for a method of lump sum prepayment to each tribe at the beginning of each service year in lieu of the letter of credit reimbursement system would greatly alleviate many of the administrative and budgetary difficulties in the 638 contracting process; and

WHEREAS: Integration of other Federal Domestic Assistance Program grants with BIA-IHS would greatly expand Indian tribes' access to very helpful government programs.

THEREFORE BE IT RESOLVED the National Congress calls upon the Congress to expedite amendment of P.L. 93-638 to authorize a change from a contracting system to consolidated block grants.

LEGISLATION COMMITTEE

Policy Resolution No.6
CONGRESSIONAL COMMITTEE STRUCTURE
Adopted September 22, 1977

WHEREAS: The federal government, including the Congress, has a clear and undebatable trust relationship with the American Indian people, requiring the highest degree of care in the exercise of that federal fiduciary duty; and

WHEREAS: for the Congress to adequately assist Indians in the legislative process there must be the proper committee structure within the Senate and the House; and

WHEREAS: the Senate Select Committee on Indian Affairs expires with the adjournment of the 95th Congress; and

WHEREAS: the House Subcommittee on Indian Affairs and Public Lands is understaffed, with regard to Indian Affairs, and is subject to jurisdictional conflicts; and

WHEREAS: the Senate Committee on Human Resources and the Committee on Energy and Natural Resources will also be subject to jurisdictional conflicts of interest and lack of adequately trained staff necessary to deal with Indian Affiars, and these Committees will undoubtedly devote most of their attention and time to the national issues of energy and human resources; and

WHEREAS: the diversity and complexity of Indian Affairs requires the attention of standing committees; and

WHEREAS: past experience demonstrates that when the combining of Indian legislative matters with those of competing and conflicting interests occurs, the Indian interest proposals have been subordinated, the trust relationship has been altered and the enacted legislation has served to create devastating policies opposed to the Indian interest; and

WHEREAS: the American Indian Policy Review Commission has strongly recommended the establishment of standing committees on Indian Affairs in the House and in the Senate, or in the alternative a joint House-Senate Committee on Indian Affairs; now

THEREFORE BE IT RESOLVED that the 1977 Convention of the National Congress of American Indians establishes as one of its major priorities to do all in its power to fight for the implementation of standing committees on Indian Affairs in both the United States Senate and House of Representatives, or in the alternative, a joint House-Senate Committee on Indian Affairs.

LEGISLATION COMMITTEE

Policy Resolution No. 7
FEDERAL REORGANIZATION
Adopted September 22, 1977

WHEREAS: In 1975 and again in 1976, by resolution the NCAI called for reestablishment of a separate independent department or agency for the administrations of Indian Affairs as the only ultimate solution to the conflict of interest; and the need for all federal agencies to file a trust impact statement prior to taking agency action affecting Indian trust rights; and

WHEREAS: the American Indian Policy Review Commission's final report also recommends the establishment of a separate Indian agency as well as the establishment of a central coordinating authority for all federal Indian programs; and

WHEREAS: the American Indian Policy Review Commission's report also calls for branch changes in the organization of the B.I.A. along the lines set forth in the B.I.A. management study; and

WHEREAS: the Secretary of Interior has stated for the record that his administration will support the establishment of an Independent Agency if the Indian people indicate that that is their choice; and

WHEREAS: the President's Reorganization Task Force is presently engaged in a comprehensive review of federal administration;

THEREFORE BE IT RESOLVED, the NCAI reaffirms its support for:

(1) the establishment of an Independent Indian Agency

(2) the creation of an Indian Trust Rights impact statement requirement for all federal agencies

(3) the reorganization of the B.I.A. consistent with the recommendation of the American Indian Policy Review Commission Management Study

(4) the identification and establishment of a central coordination authority for all federal Indian programs

BE IT FURTHER RESOLVED, that the NCAI executive committee should meet as soon as possible with key representatives of the President's Reorganization Task Force and communicate first hand these important federal reorganization positions.

LEGISLATION COMMITTEE

Policy Resolution No. 8
TRIBAL PARTICIPATION IN F.D.A.P.
Adopted September 22, 1977

WHEREAS: Indian tribes are distinct political units of government and have a special relationship with the federal government; and

WHEREAS: the Congress of the United States has adopted the policy of assisting and promoting Indian tribes in economic and social development and self-determination; and

WHEREAS: the United States Congress has enacted a multitude of federal statutes which authorize over 700 Federal Domestic Assistance Programs administered by numerous federal agencies to provide social, economic, and technical assistance to State and local units and sub-divisions of government, through contracts and grants; and

WHEREAS: Indian tribes have been deemed ineligible for a number of said programs because of Congressional oversight in failing to specifically include Indian tribes as eligible units of government; and

WHEREAS: various agencies have imposed restrictive administrative requirements and regulations on the programs they administer which fail to take into consideration the special circumstances and relationship of Indian tribes to the Federal government and which results in tribes being ineligible for various programs as a practical matter; and

WHEREAS: many programs ignore the status of Indian tribes as units of government totally seperate from the State governments by funding tribes through state agencies or pursuant to state plans as opposed to direct funding to tribal governments; and

WHEREAS: such programs such as LEAA, numerous HEW, and Community Services Administration programs and others are channeled through the States and subject Indian tribes to state control and jurisdiction and make Indian tribes dependent upon the good will of the states in order to obtain a fair share of the program's funds, which good will and cooperation is often lacking; and

WHEREAS: there is inadequate dissemination and access to information by Indian tribes concerning the availability of program, eligibility requirements, opening and closing dates, agency contact personnel and other vital program and procedural information resulting in low levels of participation by Indian tribes in Federal Domestic Assistance Programs and

WHEREAS: in other cases state agencies have consistently used Indian population and land figures to justify federal programs without providing for tribal

THEREFORE BE IT RESOLVED, that the National Congress of American Indians hereby identifies to the following as major priorities:

1. The Congressional enactment of a general rule of statutory construction which would automatically make Indian tribes eligible units of government for purposes of all federal domestic assistance legislation, or, in the alternative, specific amendment to each authorizing statute;
2. The administrative and/or statutory clarification and policy implementation that Indian tribes are separate and distinct governmental units and, as such, should be directly funded by those federal agencies which now channel funding through state agencies or pursuant to state plans;
3. Immediate implementation by the Assistant Secretary for Indian Affaris of the recommendations to the FIDAP Study - 1977 done by the American Indian Law Center to insure that Indian tribes are thoroughly informed of all the Federal Domestic Assistance Programs which are available to them with other relevant program information;
4. The Congressional enactment of legislation designating the Assistant Secretary for Indian Affairs as the lead federal official in coordinating and formulating a consistent federal policy with regard to tribal eligibility and participation in Federal Domestic Assistance Programs in all Federal agencies and that he be further empowered to order the waiver or modification of those administrative or regulatory requirements of any federal agency which unnecessarily impair tribal participation in various programs;
5. Active coordination and assistance of tribes of joint funding projects by the Assistant Secretary for Indian Affairs;
6. Legislative empowerment of the "lead agency" designated pursuant to a joint funding project to waive or modify those adminsitrative or regulatory requirements which unnecessarily impair tribal participation in various programs or which unnecessarily impede the joint funding project itself.
7. Where Indian population and land figures, and such other data are used as justifications for federal programs and grants, Indian tribes, by law, should be provided corresponding rights of participation and/or control over such programs and grants.

Is there a representative from the Labor Department here?

[No response.]

If not, we assume they will be here for the Friday hearing.

We have no more business today. We thank all the witnesses.

The hearings are in recess until 10 a.m. Friday morning. We will meet in room 457, Russell Office Building.

[Whereupon, at 11:55 a.m., the committee was recessed, to reconvene Friday, April 21, 1978.]

INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT

FRIDAY, APRIL 21, 1978

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 457, Russell Senate Office Building, Senator James Abourezk (chairman of the committee) presiding.

Staff present: Alan Parker, chief counsel; Karl Funke, assistant counsel; and Michael Cox, minority counsel.

Chairman ABOUREZK. The hearing will come to order.

I would request unanimous consent to insert my opening statement in the record at this point.

Our first witness this morning is George Goodwin, Deputy Assistant Secretary for Indian Affairs, Department of the Interior.

I now place your prepared statement in the record.

[Chairman Abourezk's opening statement and Mr. Goodwin's prepared statement follow:]

OPENING STATEMENT

OF

SENATOR JAMES ABOUREZK

S. 2712, The Indian Program Evaluation and Needs Assessment Act

THE PURPOSE OF THIS HEARING BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS IS TO TAKE TESTIMONY FROM THE ADMINISTRATION ON S. 2712, THE INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT BILL. THE PURPOSE OF THIS LEGISLATION IS TO REQUIRE ALL FEDERAL AGENCIES WHICH ADMINISTER SPECIAL PROGRAMS AND SERVICES FOR INDIANS TO PROVIDE AN ANNUAL REPORT TO CONGRESS WHICH WOULD CONTAIN INFORMATION CRITICAL TO THE CONGRESS IN EVALUATING THE EFFECTIVENESS OF INDIAN PROGRAMS, AND THE FLUCTUATING STATUS OF INDIAN LANDS. IN ADDITION, THE BILL WOULD REQUIRE THAT A COMPREHENSIVE NEEDS ASSESSMENT BE DONE EVERY FIVE (5) YEARS SO THAT THE CONGRESS CAN MORE REALISTICALLY EVALUATE THE ACTUAL UNMET NEEDS OF INDIANS THROUGHOUT THE COUNTRY. THE BILL WOULD ALSO ESTABLISH A FEDERAL INTERAGENCY COUNCIL ON INDIAN AFFAIRS TO COORDINATE FEDERAL INDIAN PROGRAMS, POLICY, AND BUDGETARY PLANNING SO AS TO FACILITATE EFFECTIVENESS OF THE PROGRAMS.

THE LACK OF INFORMATION HAS IN THE PAST SEVERELY HAMPERED THE CONGRESS IN EVALUATING THE EFFECTIVENESS OF FEDERAL INDIAN PROGRAMS, AND THE EFFECTIVENSS AND PERFORMANCE OF THE FEDERAL AGENCIES ADMINISTERING THEM.

THE PERIODIC NEEDS ASSESSMENT CALLED FOR IN THE BILL WOULD GREATLY ASSIST THE CONGRESS AS WELL AS THE INDIANS IN DEVELOPING LONG-RANGE PLANS AND MAKING CRITICAL BUDGETARY AND APPROPRIATIONS DECISIONS BASED ON A REALISTIC ASSESSMENT OF WHAT THE NEEDS ARE.

AT PRESENT TIME, THERE IS VERY LITTLE IF ANY COORDINATION OF FEDERAL INDIAN PROGRAMS BETWEEN THE VARIOUS FEDERAL AGENCIES. THE EFFECTIVENESS OF THE PROGRAMS AND THE WELL-BEING OF THE INDIAN PEOPLE OFTEN SUFFER NEEDLESSLY AS A RESULT. THE FEDERAL INTER-AGENCY COUNCIL PROPOSED IN THIS BILL COULD GO A LONG WAY IN DEVELOPING CONSISTENT PROGRAM POLICIES AND FACILITATING COORDINATION OF FEDERAL INDIAN PROGRAMS BETWEEN AGENCIES.

MOST OF THE DATA COLLECTION AND REPORTING REQUIREMENTS WHICH WOULD BE IMPOSED ON THE AGENCIES BY THIS BILL COULD BE BUILT INTO EXISTING MANAGEMENT INFORMATION SYSTEMS OF THE AGENCIES AND SHOULD NOT REQUIRE ANY SIGNIFICANT INCREASE IN ADMINISTRATIVE COSTS OR TIME.

IN MY VIEW, THE BILL WOULD ONLY REQUIRE INFORMATION WHICH THE AGENCIES AND THE CONGRESS SHOULD MAINTAIN AS A MATTER OF GOOD MANAGEMENT PRACTICES WHICH COULD BE USED BY THE AGENCIES IN MORE EFFECTIVELY ADMINISTERING THE FUNDS APPROPRIATED FOR FEDERAL INDIAN PROGRAMS AND BY THE CONGRESS IN EVALUATING THE SAME.

TODAY, THE COMMITTEE IS HAPPY TO HEAR FROM SENATOR SPARK MATSUNAGA FROM HAWAII AND REPRESENTATIVES FROM THE DEPARTMENT OF THE INTERIOR, THE NAVAJO AND HOPI INDIAN RELOCATION COMMISSION, THE DEPARTMENT OF COMMER, AND THE DEPARTMENT OF

HEALTH, EDUCATION AND WELFARE. ADDITIONAL WRITTEN STATEMENTS AND REPORTS HAVE BEEN AND ARE GOING TO BE SUBMITTED BY OTHER SENATORS, NUMEROUS FEDERAL AGENCIES, TRIBES AND INDIAN ORGANIZATIONS. THE HEARING RECORD WILL REMAIN OPEN UNTIL MAY 11, 1978. ON BEHALF OF MYSELF AND THE COMMITTEE MEMBERS, I WOULD LIKE TO WELCOME YOU HERE TODAY AND THANK YOU FOR YOUR INTEREST AND PARTICIPATION IN THIS IMPORTANT HEARING.

STATEMENT OF GEORGE GOODWIN, DEPUTY ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS, BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS HEARING ON S. 2712, INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT, APRIL 21, 1978.

Mr. Chairman, members of the Committee, and staff, my name is George Goodwin. I am a member of the Minnesota Chippewa Tribe and Deputy Assistant Secretary for Administration.

The Department of the Interior would welcome the gathering of data on Indian programs in the federal government as intended by S. 2712. There is a definite need for identifying problems in Indian communities on the Indian reservations we serve and off reservations where Indians are served by other federal agencies. There is a greater need to evaluate the effectiveness of programs which are designed to meet Indian needs and to examine alternative programs which might do the job more effectively. Specifically we see a need for more comprehensive planning and followup program evaluations for Federal Domestic Assistance programs.

The Bureau of Indian Affairs is currently implementing a program whereby tribes can evaluate the effectiveness of Bureau programs. This program will result in a plan whereby tribes can (1) determine their own needs, (2) set goals which will satisfy those needs, (3) establish criteria for determining when goals have been reached, and (4) measure progress toward goals. This process will determine whether a program is cost effective and whether or not it is meeting its intended objectives. We believe that it is most important for the tribes to conduct needs assessments and program evaluations, and not to have such assessments imposed by Federal agencies. We believe it is inimical to the concept and policy of self-determination for federal agencies to tell tribes what their needs are. The tribes are more sensitive to their own needs than anyone else and the findings of assessments and evaluations are more likely to be heeded and utilized by the tribes if they are their own findings.

So, while we support the concepts embodied in S. 2712 to meaningfully assess needs and evaluate programs, we do not support the bill as currently written because we doubt it will accomplish its intent in its present form. We recognize that other Federal agencies believe the requirements of S. 2712 would impose very burdensome data collection, processing and reporting requirements without deriving the kind of information which is needed to improve the management and focus of Federal Indian programs. We view section 106, the needs assessment section, as the heart of the bill and find it unworkable as currently written because the agencies, not the tribes, would conduct the needs assessment and because there is no provision for planning and the establishment of priorities to meet the needs once they are determined. We also feel that the role of the Federal Inter-agency Council on Indian Affairs to be established by title II of the bill is unclear and needs a great deal more definition. There are some technical and drafting problems with the bill which also need attention.

We will be happy to continue working with this committee to come up with a bill which could overcome the problems we see with S. 2712 and which the Administration supports.

Thank you for this opportunity to express our views. We will be happy to answer questions you might have about this statement.

STATEMENT OF GEORGE GOODWIN, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Goodwin. Good morning, Mr. Chairman.

The Department of the Interior would welcome the gathering of data on Indian programs in the Federal Government as intended by S. 2712.

There is a definite need for identifying problems in Indian communities on the Indian reservations and for identifying needs off reservations which are being served by other Federal agencies.

There is a greater need to evaluate the effectiveness of programs which are designed to meet Indian needs and to examine alternative programs which might do the job more effectively.

Specifically, we see a need for more comprehensive planning and followup program evaluations for Federal domestic assistance programs.

The Bureau is currently implementing an effort under which a number of tribes will be demonstrating and testing various techniques for evaluating Bureau programs and service delivery systems.

This will lead toward a plan wherein those tribes which so desire would have the opportunity to: (1) determine their own needs; (2) set goals which will satisfy those needs; (3) establish criteria for determining when goals have been reached; and (4) measure progress toward goals.

This process will determine whether a program is cost effective or whether or not it is meeting the intended objectives.

We believe it is most important for the tribes to conduct needs assessments and program evaluations and not to have such assessments imposed by Federal agencies. We believe it is inimical to the concept and policy of self-determination for Federal agencies to tell tribes what their needs are.

The tribes are more sensitive to their own needs than anyone else, and the findings and assessments and evaluations are more likely to be heeded and utilized by the tribes if they are their own findings.

So while we support the concepts embodied in S. 2712 to meaningfully assess needs and evaluate programs, we do not support the bill as currently written because we doubt it will accomplish its intent in the present form.

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We view section 106, the needs assessment section, as the heart of the bill and find it unworkable as currently written because the agencies—not the tribes—would conduct the needs assessment and because there is no provision for planning and the establishment of priorities to meet the needs once they are determined.

We also feel that the role of the Federal Interagency Council on Indian Affairs to be established by title II of the bill is unclear and needs a great deal more definition. There are some technical and drafting problems with the bill which also need attention.

We will be happy to continue working with the committee to come up with a bill which could overcome the problems we see with S. 2712 and which the administration can support.

Thank you for this opportunity to express our views.

We will be happy to answer any questions you might have about the statement.

Chairman **Abourezk**. Thank you.

Title I and section 101 of the bill would require Interior to maintain data concerning the dollar amount and the method of delivery of Indian program services by tribes or other Indian entity or non-Indian entity.

I take it you don't feel that this requirement is too burdensome for the BIA to develop mechanisms to identify and compile the data?

Mr. **Goodwin**. Not currently as written.

In fact, we are preparing some management information systems now which would actually accomplish this purpose.

Chairman **Abourezk**. In fact, it might even help speedup the development of those systems; right?

Mr. **Goodwin**. Yes; it would.

Chairman **Abourezk**. A recent report of the Comptroller General, which was titled "More Effective Controls Over Bureau of Indian Affairs Administrative Costs Are Needed," stated that the BIA needs to develop a better financial management system so that they can keep track of administrative costs and periodically monitor those costs so as to control them.

Section 102 of this bill would require BIA to develop mechanisms to keep track of administrative costs.

Do you have any quarrel with the GAO report in that regard?

Mr. **Goodwin**. We do have some definitional problems on what we call administrative costs and what GAO calls administrative costs.

I think one of the important things that——

Chairman **Abourezk**. But you don't have any quarrel with the idea that BIA needs to keep track of the costs and to monitor them?

Mr. **Goodwin**. That is correct. We don't have any quarrel with that.

Chairman **Abourezk**. That was my real question. I didn't want to get into the full gist of that report.

The requirements of the bill and the GAO recommendations require BIA to specify which subaccounts the administrative costs could be charged to and then to compile the amounts so charged.

Do you feel this is necessary and in keeping with good management practices?

Mr. **Goodwin**. Yes; I do.

Chairman **Abourezk**. Do you think coordination between agencies and the Bureau of Indian Affairs is needed?

Mr. **Goodwin**. Yes.

We support the concept of the Interagency Council.

In fact, we feel that some of the proposed activities, such as interagency agreements, would be facilitated by that council. We also feel that some of the efforts that we are attempting to get underway under the Joint Funding Simplification Act would be enhanced through a Federal council.

Chairman **Abourezk**. What about staffing the council? Should it come from various agencies or from an independent staff?

Mr. Goodwin. Looking at the total amount of work that is needed by the council, I think a small corps staff could possibly do a great deal of that detail work. If you need liaison with other Federal agencies, perhaps an arrangement could be made to detail Federal employees to work with the council.

Chairman **Abourezk.** Wouldn't that give the other agencies a better-vested interest in seeing the thing work?

Mr. **Goodwin.** I would say so, yes.

Chairman **Abourezk.** What about a separate budget for the operations of the council? Should that be done or should it be included in the BIA budget?

Mr. **Goodwin.** I would rather see a separate budget.

Mr. **Funke.** In talking with the GAO people who did the report on the BIA budget process and band analysis, they said that one of the problems with the Bureau not being able to develop comprehensive plans was that they had little knowledge or expertise in terms of what the actual needs of the Indian tribes were or what the priorities and comprehensive plans might be of Indian tribes.

I wonder if you agree with the statement that the BIA would have a difficult time developing its own long-range planning without doing an assessment of the needs and having the tribes develop comprehensive plans?

Mr. **Goodwin.** The problem has been that there has been no really concentrated effort in the Bureau for needs assessment or planning.

Through our current programs now we have the major focus for planning in the 638 effort under the self-determination staff.

We have asked the tribes, as recently as February of this year, to emphasize planning in the use of the 638 grant moneys.

We think the tribe's priorities should determine whether or not they want to spend their moneys or funds on planning.

Mr. **Funke.** Do you think the needs assessment, if it was coupled with comprehensive planning, would assist the BIA in terms of establishing priorities for program budgets and assisting the tribes in developing their budgets?

Mr. **Goodwin.** Yes; we feel that way. In fact, we are working on a project right now with tribal education programs. We feel that the needs assessment should be developed over a period of time on overall education needs at the tribal level, but we feel it is imperative to get the tribal input for establishing priorities.

This will enable us to project some better budgeting figures. We anticipate this will be an ongoing effort. This process could actually be used as a planning model in the Bureau and assist us in overall needs assessment.

Mr. **Funke.** Title II of the bill would establish the Federal Interagency Council to coordinate budgetary planning, develop and coordinate Federal policy and program policy. Do you think the concept of the interagency council is a good idea? If so, do you have any suggestions as to how that council might be made more effective?

Mr. **Goodwin.** I believe in my opening statement, we did favor the Council concept.

I think some of the concerns have been that the requirements of the council be less rigid in the statute and, hopefully, give them more flexibility to define things, such as data base and needs assessment. In other words, the council should have more flexibility in determining those basic requirements.

Mr. FUNKE. Section 101 sets out the program expenditure data that would be required under the bill. It is the opinion of the staff that this is a minimal amount of data that should be provided to Congress—in terms of evaluation of the programs.

Do you think it is too rigid in requiring that data? Or is your comment more to the effect that the council should be able to add or delete additional things but not delete what is specifically in the bill?

Mr. GOODWIN. My comment was based on title II—not specifically on section 101.

We are asking the council—for instance, under 1(a), section 201—to develop a uniform needs assessment, establishment of a brief profile on each tribe, establish a number of baseline data, and do most of the things that some of the agencies are already doing. At least the Bureau is now doing some of these things.

By requiring those things under title II, I think we have the problem of being too rigid. I think the council may want to take a look at some of the activities down the line and decide if there is a need to change.

Mr. FUNKE. Thank you.

Chairman ABOUREZK. Thank you very much. We appreciate your appearance.

Mr. GOODWIN. Thank you.

Chairman ABOUREZK. Our next witness is Commissioner Robert Lewis, Navajo and Hopi Indian Relocation Commission, Flagstaff, Ariz.

I would like to welcome you to the committee, once again, Commissioner Lewis.

Your prepared statement will be made part of the record.

[The prepared statement of Commissioner Lewis follows:]

UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION
2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

April 17, 1978

[illegible] 21 1978

The Honorable James Abourezk
1105 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Senator Abourezk:

As requested in your letter of March 20th, enclosed are ten (10) copies of the statement to be presented by Commissioner Robert E. Lewis at the hearing on S. 2712 scheduled for April 21, 1978.

Sincerely,

Leon H. Berger

Leon H. Berger
Acting Executive Director

LHB:ml

Enclosure

UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION
2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

STATEMENT OF ROBERT E. LEWIS, COMMISSIONER, REPRESENTING THE NAVAJO AND HOPI INDIAN RELOCATION COMMISSION BEFORE THE SENATE SELECT COMMITTEE HEARING ON SENATE BILL 2712, ROOM 457, RUSSELL SENATE OFFICE BUILDING, APRIL 21, 1978

Mister Chairman:

In behalf of the Navajo and Hopi Indian Relocation Commission, I want to thank you for the invitation to the Relocation Commission to participate at this hearing on S. 2712.

One purpose of the Bill is to provide Congress with information with which to evaluate the effectiveness and fiscal accountability of agencies administering "Indian Programs."

The information and data cited in Title I, Sections 101, 102, and 103 are only a part of what's necessary for evaluating a program's efficiency. The balance of what's needed are performance criteria - program goals, standards of effectiveness, etc. These are not specified in S. 2712, nor is the proposed Interagency Council on Indian Affairs directed to develop such criteria.

Among the information and data cited in Title I, Sections 101, 102 and 103 are the amount of funding by states, and percentages and dollar amounts expended for administrative overhead and actual services. This suggests that Congress will evaluate programs on the basis of the amount of money used to administer a program, and the amount of money going to each State. These are most imperfect criteria for evaluating efficiency, and would also provide very little insight into a program's effectiveness. (Efficiency should look at the cost of delivering a service, as well as the cost of administering service delivery; effectiveness should look at how well the intent of the service's authorizing legislation was being met.)

The Navajo and Hopi Indian Relocation Commission would recommend that Section 201(b) be amended to mandate the Interagency Council on Indian Affairs to develop standards for evaluating the effectiveness and efficiency of "Indian Programs." This could involve the Council developing program cost effectiveness criteria, and would involve developing standards of effectiveness for each Title/Section of all laws that provide programs and services to Indians. The standards for evaluating program effectiveness should be similar to those found in Community Services Administration Instruction 7850-1a, because such criteria would outline both quantitative and qualitative standards, against which the effectiveness of programs and projects could be assessed.

Another purpose of the Bill is to improve "Indian Programs" by undertaking a comprehensive needs assessment every five (5) years (Title I, Section 106.)

A periodic needs assessment is very valuable. A needs assessment of the magnitude envisioned by the Bill would be very costly.

Such a needs assessment would be similar to part of the Navajo and Hopi Indian Relocation Commission's planning efforts. This provides a clue to the cost of conducting a needs assessment for an area the size of the former Joint Use Area (comprised of 1,800,000 acres and a population of 12,000.) I estimate such an assessment would require:

1	GS-11	Senior Planner	$ 18,000
2	GS-9	Assistant Planners	30,000
1	GS-5	Clerk Typist	10,000
10	GS-5	Meeting Facilitators	100,000
			$158,000

(for one (1) year, to do a needs assessment analysis for an area the size of the former Joint Use Area.

In view of the above, the Navajo and Hopi Indian Relocation Commission recommends that additional funding be provided to agencies so that they may add a five-year plan capability to their existing planning capability.

The Bill calls for compiling Program Expenditure Data in addition to the Needs Assessment cited in Section 106 (Title I, Sections 101, 102, 103, 104 and 105.) The Navajo and Hopi Indian Relocation Commission would also recommend that additional funding be provided to agencies so that they can meet any additional record keeping and reporting demands that the Bill will mandate them to accommodate. This is especially relevant to Title I, Section 105(a)(6) which requires that the Record of Land Status include an assessment as to whether the lands are held in economically viable units, taking into consideration both the actual and potential economic utilization by the Tribe, and the economic and efficient utilization by the Government.

Thank you.

STATEMENT OF ROBERT E. LEWIS, COMMISSIONER, NAVAJO AND HOPI INDIAN RELOCATION COMMISSION, FLAGSTAFF, ARIZ.

Mr. LEWIS. Thank you, Mr. Chairman.

In behalf of the Navajo and Hopi Indian Relocation Commission, I want to thank you for the invitation to the Relocation Commission to participate in this hearing on S. 2712.

One purpose of the bill is to provide Congress with information with which to evaluate the effectiveness and fiscal accountability of agencies administering Indian programs.

The information and data cited in title I, sections 101, 102, and 103 are only a part of what is necessary for evaluating a program's efficiency.

The balance of what is needed are performance criteria: program goals, standards of effectiveness, and so forth. These are not specified in S. 2712 nor is the proposed Interagency Council on Indian Affairs directed to develop such criteria.

Among the information and data cited in title I, sections 101, 102, and 103 are the amount of funding by States and percentages and dollar amounts expended for administrative overhead and actual services.

This suggests that Congress will evaluate programs on the basis of the amount of money used to administer a program and the amount of money going to each State. These are most imperfect criteria for evaluating efficiency and would also provide very little insight into a program's effectiveness.

Efficiency should look at the cost of delivering a service as well as the cost of administering service delivery. Effectiveness should look at how well the intent of the service's authorizing legislation was being met.

The Navajo and Hopi Indian Relocation Commission would recommend that section 201(b) be amended to mandate the Inter-Agency Council on Indian Affairs to develop standards for evaluating the effectiveness and efficiency of Indian programs. This could involve the council developing program cost effectiveness criteria and would involve developing standards of effectiveness for each title and section of all laws that provide programs and services to Indians.

The standards for evaluating program effectiveness should be similar to those found in Community Services Administration Instruction 7850-1a, because such criteria would outline both quantitative and qualitative standards, against which the effectiveness of programs and projects could be assessed.

Another purpose of the bill is to improve Indian programs by undertaking a comprehensive needs assessment every 5 years—title I, section 106.

A periodic needs assessment is very valuable. A needs assessment of the magnitude envisioned by the bill would be very costly.

Such a needs assessment would be similar to part of the Navajo and Hopi Indian Relocation Commission's planning efforts.

This provides a clue to the cost of conducting a needs assessment for an area the size of the former joint use area—comprised of 1.8 million acres and a population of 12,000.

I estimate that such an assessment would require one GS–11 senior planner at $18,000; two GS–9 assistant planners at $30,000; one GS–5 clerk typist at $10,000; and 10 GS–5 meetings facilitators at $100,000, making a total of $158,000 for 1 year to do a needs assessment analysis for an area the size of the former joint use area.

In view of the above, the Navajo and Hopi Indian Relocation Commission recommends that additional funding be provided to agencies, so that they may add a 5-year plan capability to their existing planning capability.

The bill calls for compiling program expenditure data, in addition to the needs assessment cited in section 106, title I, sections 101, 102, 103, 104, and 105.

The Navajo and Hopi Indian Relocation Commission would also recommend that additional funding be provided to agencies so that they can meet any additional recordkeeping and reporting demands that the bill will mandate them to accommodate.

This is especially relevant to title I, section 105(a)(6) which requires that the record of land status include an assessment as to whether the lands are held in economically viable units, taking into consideration both the actual and potential economic utilization by the tribe and the economic and efficient utilization by the Government.

Thank you.

Mr. FUNKE. Do you think that needs assessments and comprehensive planning is needed if the Government is going to effectively carry out programs for the benefit of Indians?

Mr. LEWIS. I certainly do, sir.

In fact, I believe that in 1969, the Zuni tribes completed a prototype plan, comprehensively, to be used by other tribes. I think the idea is very good, because it came from the people and that is where it should come from.

Our understanding of self-determination is not based on what the tribal council wants; it is what the people need and should have and have expressed their desires to their council for.

So comprehensive planning, essentially, is what we refer to as multiagency planning, which involves all funding agencies that are available in this day.

We feel, in line with what S. 2712 suggests that the Federal regional councils, if used to their top efficiency, could be a part of the evaluations process that is being requested in S. 2712.

Mr. FUNKE. Thank you.

Chairman ABOUREZK. Thank you, Commissioner Lewis. We apprecate your appearance today.

Mr. LEWIS. Thank you, sir.

Chairman ABOUREZK. Our next witnesses are a panel from the Department of Commerce, Harold Williams and Ray Tanner.

[No response.]

From the Intra-Departmental Council on Indian Affairs, Department of Health, Education, and Welfare, we will hear from James Kissko and Dan Dozier.

STATEMENT OF JAMES A. KISSKO, EXECUTIVE DIRECTOR, INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; ACCOMPANIED BY DANIEL DOZIER, DIRECTOR, CONGRESSIONAL LIAISON OFFICE. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. KISSKO. My name is James Kissko, and I am the Executive Director of the Intra-Departmental Council on Indian Affairs within the Department of Health, Education, and Welfare.

I am being accompanied this morning by Mr. Daniel P. Dozier, Director of the Congressional Liaison Office of the Department of Health, Education, and Welfare.

In our written statement, we have submitted some information of current activities within HEW that we feel constitute a significant initiative on the part of HEW to address many of the concerns raised in the legislation being proposed.

What I would like to do is to leave that with you, along with supporting information, and move directly to the discussion of various parts of S. 2712.

[Mr. Kissko's prepared statement follows:]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

TESTIMONY OF
JAMES A. KISSKO, EXECUTIVE DIRECTOR
INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

ACCOMPANIED BY
DANIEL DOZIER, DIRECTOR
CONGRESSIONAL LIAISON OFFICE
BEFORE THE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

APRIL 21, 1978

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My name is James Kissko and I serve as Executive Director of the Intra-Departmental Council on Indian Affairs of the Department of Health, Education, and Welfare. Accompanying me this morning is Mr. Daniel P. Dozier, Director of the Congressional Liaison Office, HEW, and a member of the Council. We appreciate the opportunity to discuss S. 2712, the Indian Program Evaluation and Needs Assessment Act. Our discussion will not include section 105 which deals with the issue of Indian Land Status as the Bureau of Indian Affairs has special experience and authority in this area.

The Department of Health, Education and Welfare's Intra-Departmental Council on Indian Affairs consists of key decision-making officials representing 25 diverse Departmental agencies and programs, including each Indian program. The Council was established in 1975 to serve as HEW's focal point for Indian Affairs. The primary purposes of the Council are to improve communications within the Department and to effect coordination, cooperation and complementary utilization of the Department's resources for Indian people. Consistent with the Federal policy of Indian self-determination, the Council is charged with the responsibility of developing comprehensive and uniform policies on Indian affairs in consultation with the Indian community. An additional goal of the Council is to increase the receipt of resources and services by Indian people from the various programs in the Department which are geared to the general populace but for which Indian people are also eligible.

The Council is responsible for identifying specific legislative, administrative and regulatory changes necessary for the effective application of effective Indian policies and for the improvement of the delivery of resources and services to Indian people.

As a result of efforts to develop comprehensive policies in Indian affairs, the Council has: 1) examined extensively agency policies and practices; 2) examined resource utilization; 3) analyzed data capability and availability; 4) identified barriers to the full delivery of resources; and 5) after consultation with the Indian community, has forwarded to the Secretary action recommendations to resolve a number of issues and problems.

These recommendations have as a common theme the fact that the Department and its agencies have broader responsibilities to Indian people than those merely delineated by the Indian earmarked programs. We recognize that the Department and its agencies have not completely fulfilled their responsibilities. A common misconception is that all Indian needs are being or should be met by the Department's Indian programs or by the Bureau of Indian Affairs. Clearly this is not the case.

Because of this neglect, rural and urban isolation, and cultural and language differences, Indians tend not to receive many of the services to which they are entitled as citizens. The thrust of the Council's recommendations has been to force greater accountability on the agencies, the States and the programs they adminst r, which should be providing services to Indian people as members of the general populace.

In October 1977, Secretary Joseph A. Califano, Jr. approved the Council's recommendation to establish a new, broadly-based initiative on Indian affairs for the Department. The Secretary has recognized and reaffirmed the central role of the Council as the formal coordinating point in the Department for Indian affairs. Furthermore, Secretary Califano has directed that actions be taken to:

- establish a standard definition for "American Indian/Alaskan Native" for use throughout the Department (except where another definition has been legislatively mandated for a program);
- begin a new effort to disseminate accurate information for and about Indian people;

- identify, in consultation with Indian representatives, needed actions by each HEW agency to improve delivery of its services to Indians;
- assume the initiative to define and distinguish the responsibilities of HEW from those of other Federal agencies regarding services to Indian people.

We would like to share with you an example of steps the Department already has taken to determine the extent to which Indian people are benefiting from programs not specifically directed to Indian people and, more significantly, how to increase access to these programs and services.

We know that Indian tribes and organizations are eligible for about three of four HEW programs. Council analysis has shown that Indian tribes and organizations tend not to fully participate in most of these programs. For example, a review of the sources of funds of a sample of 31 tribes supported by grants from the Office of Native American Programs in 1976 revealed that 48 HEW programs were identified as funding sources. However, of these 48 programs in which there was some Indian participation, only 12 were being utilized by more than one tribe.

As a result of the identification of this problem, the Secretary has established an initiative to improve and increase the delivery of all HEW services and benefits to

Indian people, and to measure their effectiveness.

In consultation with Indian people, each HEW program is required to develop a plan which specifies how it will improve the delivery of its services to Indian people. As part of the plan, the Secretary is requesting that each program provide current data on services being delivered to Indian people as well as quantifiable objectives for measuring the improved or increased delivery of services. Plans are to be submitted by June 15, and implementation is to begin no later than September 30.

At the same time we are developing comprehensive descriptions of 100 programs within HEW for use by Indian tribes and organizations in gaining access to these programs. They detail:

- eligibility
- program purpose
- current objectives or priorities
- criteria for review
- estimates of available funds
- special considerations
- agency contact person
- examples of funded proposals from Indian tribes and organizations.

Approximately 1/3 of the work is completed. The descriptions will be disseminated as a package to Indian tribes and organizations. They are a practical, understandable and current reference to the Department's programs for Indian people.

Secretary Califano has provided significant support to the Council and has shown a special sensitivity and conviction by announcing and pursuing the Department's new Indian initiative.

I would like to turn now to a short summary of the bill.

Section 101 of Title I (Program Expenditure Data) would require each Federal agency to develop procedures for compiling, maintaining, keeping current and reporting to Congress data and information concerning:

- annual expenditures for services which Indian tribes, tribal organizations, Indian economic enterprises, or nontribal Indian organizations are eligible.

- any service or program provided specifically for the benefit of Indians whether provided by the above groups or nontribal Indian organizations, individual Indians or funded through non-Indian organizations.

- agency's method of service delivery categorized by:
  - -- direct services
  - -- indirect services
  - -- direct funding
  - -- indirect funding

This will be further categorizied by the above eligible groups on a State-by-State basis.

Section 102 (Agency Fiscal Accountability) would require each agency which administers any program specifically to or for the benefit of Indians to compile, maintain and report to Congress information on aggregate total dollars and percentage of each program appropriation or allocation charged to administrative and overhead costs, and the percentage and dollar amounts expended for actual services and funding to Indian people.

Section 103 (Program Allocations) would require that for programs and services not specifically directed to Indians, but for which they are eligible as citizens, each agency shall provide information by tribe and organization on any monies set-aside for Indians at the beginning of the fiscal year. In addition, information by tribe or organization will also be provided by each Federal agency on appropriations for programs and services specifically directed to Indian people.

[illegible] ies that each Federal agency shall provide a list (on a five-year basis) of all its Federal domestic assistance programs for which any State or political subdivision thereof is eligible for direct funding or direct services, but for which Indian tribal governments are not eligible for direct funding or direct services. For each program so identified, the agency shall provide citations to the statutes or regulations which prohibit tribal governments' eligibility, or attach copies of those administrative opinions which determined the non-eligibility of Indian tribes.

Section 106 requires that each Federal agency, in coordination with the Federal Inter-Agency Council on Indian Affairs, shall develop a needs assessment to be conducted every 5 years to determine the actual needs and problems of the Indian tribes, organizations and individuals eligible for the agency's programs. The needs assessment shall identify which needs are recurring needs each year and which needs, if met, would not be recurring on an annual basis. Each agency shall advise the respective tribe or other applicable constituent of its preliminary needs estimates and allow for their review and comment. Any tribe or other service constitutent may draw up its own needs assessment to be attached to the agency's assessment and to be made part of the report required by this Act. Along with the needs assessment, each agency shall submit projected funding levels and indicate the percentage of the unmet need the projected funding would meet.

Title II would establish a Federal Inter-Agency Council on Indian Affairs comprised of the head of each agency and chaired by the Secretary of the Interior. Council responsibilities include coordination in the development and conduct of the needs assessments and the development of a uniform format for data submission. In addition, coordination of eligibility for Federal domestic assistance programs, information dissemination concerning these programs, and the development of interagency agreements are assigned to the Council.

At this point we would like to look at the effects of S. 2712 on some of HEW's programs and operations. While data are available through the Indian Health Service and other Indian programs in the Department, our surveys have determined that information and data on services rendered to Indian people and appropriate analysis of that data are lacking. The reasons are many and varied. Data and definitions across programs are not standardized. Each agency has a distinctive data collection system based on its program needs, legislation and regulations. Some agencies require individual recipient data; other agencies rely on grouped data provided by states and localities.

For the Department of Health, Education and Welfare to comply with the detailed and complicated requirements of section 101 would require several years and would necessitate substantial revisions in current data collection efforts and would require a large investment in staff and technical resources. Compliance with this section would be a difficult and time-consuming task for many HEW agencies. The Department currently is not in a position to provide the required information and would need time and significant resources to make the necessary extensive structural changes in its data collection systems. Furthermore, the Committee should consider the enormous reporting burden this section as currently written would impose on all levels of the public and private sectors.

Because HEW relies extensively on diverse local and State data sources which vary in accuracy, the grouped data reported may never be sufficiently reliable or valid for use in evaluation or decision-making.

In section 102 it is not clear whether Federal administrative costs, or program administrative costs, or both, are referred to. Federal administrative costs should be obtainable; however, the collection of administrative cost data at the project level is currently restricted and would be difficult to obtain as it would impose a significant paperwork burden on local projects.

Section 103 requires the collection of data related to the allocation of funding for separate tribes, organiztions, non-tribal Indian organizations and reservations. This categorization is inappropriate for the Indian Education Act, a program that provides services to Indians both on and off reservation. This is also true for a small number of other education programs in the Office of Education. It may be more appropriate to collect this information by county or State for such programs. The reporting and data processing associated with this provision would obviously be quite burdensome.

The basic program eligibility data required in section 104 is presently available for Fiscal Year 1975 and should be relatively easy to update. The information is also available in the Catalog of Federal Domestic Assistance.

We have several problems regarding the needs assessment provisions of section 106. As you know, Federal agencies are organized along categorical or functional lines. The approach proposed in S. 2712 would result in the distinctions of the various Federal programs being imposed on the tribes and organizations. The information provided may be inconsistent and the net result might be more confusion rather than increased understanding of needs and problems.

The Committee Print of the Senate Select Committee on Indian Affairs on "Analysis and Synthesis of Needs Assessment Research in the Field of Human Services" comes to some conclusions with which we agree. The report summarizes that:

> Needs assessment research enjoys a high rate of utilization when it has a user-based rather than an imposed design, when it has a specific program focus, when it is conducted by an independent research team ...(p.64)

The responsibility for developing needs assessments or identifying tribal priorities should rest with Indian tribes and organizations with support from Federal agencies, rather than being conducted by Federal agencies. By placing the responsibility for the assessment with the people or community whose needs and problems are being assessed, the assessment is likely to be more sensitive to the community. In addition, the product is more likely to be used in local priority-setting and decision-making. With respect to the need to establish priorities and to make choices between competing needs, we do not believe that section 106 is viable as currently written for policy making and program evaluation.

We offer for consideration the model being pursued by the Indian Health Service. Secretary Califano has approved a process which offers tribes and urban groups the option of developing tribal and urban specific health plans. These will be the basis of appropriations requests for fiscal years 1981-1984. Most tribes and urban groups have elected to develop their own plans, with guidance and technical assistance provided by the Indian Health Service. This approach is in keeping with the policy of self-determination and is likely to result in greater Indian involvement in the planning and delivery of health services.

We agree that Federal interagency coordination in Indian affairs is a problem. We suggest that the HEW Council might serve as a model addressing the problem of lack of Federal coordination. There should be flexibility to determine what data collection is feasible and necessary and how the data should be collected. For example, it may be that the most accurate data is not available through the Federal agencies and that other options should be pursued.

SUMMARY

The Department of Health, Education and Welfare is opposed to S. 2712 as presently drafted. We believe that the bill as drafted will not result in the attainment of the bill's implicit objectives. The Department is sensitive to the problems addressed by the bill. We have outlined specific actions taken which demonstrate our commitment to a broadly-based Indian initiative. We are making substantial progress, and feel that our approach will be successful in improving and increasing the delivery of Departmental services to Indian people.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

October 20, 1977

MEMORANDUM TO: Heads, Principal Operating Components
Assistant Secretaries
Heads of OS Staff Offices
Members, Intra-Departmental Council on Indian Affairs

SUBJECT: New Initiatives in Indian Affairs

The Intra-Departmental Council on Indian Affairs, working with the Assistant Secretary for Human Development Services, has developed a series of recommendations directed at increasing the Department's responsiveness to the needs of American Indians/Alaskan Natives. American Indians and Alaskan Natives ought to be served carefully and well by all the Department's programs, many of which deeply affect the lives of American Indians and Alaskan Natives.

I want the managers of all programs throughout the Department to be sensitive and responsive to the needs of these two important constituencies.

Based on the recommendation of the Intra-Departmental Council, I have decided that the Department should undertake the following actions:

(1) establish a standard definition for "American Indian/Alaskan Native" for use throughout the Department (except where another definition has been legislatively mandated for a program);

(2) begin a new effort to disseminate accurate information for and about Indian people;

(3) identify, in consultation with Indian representatives, needed actions by each HEW agency to improve delivery of its services to Indians;

(4) assume the initiative to define and distinguish the responsibilities of HEW from those of other Federal agencies regarding services to Indian people.

The Intra-Departmental Council on Indian Affairs within the Administration of Native Americans should be recognized as the formal central coordinating point in the Department for Indian affairs, and will be responsible for coordinating implementation of these initiatives. Based on recommendations from the Council, the Assistant Secretary for Human Development Services should set out specific plans (with timetables) for carrying out each initiative. These work plans should be submitted to the Executive Secretariat no later than December 1, 1977.

In addition, the Intra-Departmental Council has recommended that the Department seek legislation to disregard judgment funds in the income eligibility requirements for HEW services. The Assistant Secretary for Planning and Evaluation for Human Development Services and with other affected offices, should develop specific legislative recommendations and a decision memorandum on this question, and submit them by December 1.

I feel strongly that HEW can and should do more to improve the health, education and welfare of American Indians and Alaskan Natives. I am committed to increased Indian involvement in all programs in the Department which affect Indian people and to the policy of Indian self-determination.

I urge your cooperation to insure that these efforts achieve tangible results.

Joseph A. Califano Jr.

Joseph A. Califano, Jr.

January - 1978

EXAMPLE OF HEW PROGRAM DESCRIPTION PREPARED
BY THE INTRA-DEPARTMENTAL COUNCIL ON INDIAN AFFAIRS

DRAFT

PROGRAM TITLE: Contract Program for Indian Tribes and Indian Organizations

Title I, Part A, Section 103 (a)(1)(B)(iii) of the Vocational Education Act of 1963 as amended by the Education Amendments of 1976, P.L. 94-482.

Catalog of Federal Domestic Assistance Number 13.588

ELIGIBLE APPLICANTS: Indian Tribal organizations of Indian tribes which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934.

PROGRAM PURPOSE: To contract directly with Indian tribal organizations to plan, conduct, and administer portions or complete vocational education programs relevant to individual and tribal needs.

In the past, vocational education program monies were apportioned to states on the basis of population. Public Law 94-482 reserves up to 1 percent of these monies based on population figures for Indian youth ages 15-24 eligible to receive education assistance from the BIA for contracting directly with Indian tribal organizations

PROGRAM ORGANIZATION: The Contract Program for Indian Tribes and Indian Organizations is located within the Bureau of Occupational and Adult Education, U.S. Office fo Education. The U.S. Office of Education administers the program; the Bureau of Indian Affairs acts in an advisory capacity.

CURRENT OBJECTIVES OR PRIORITIES:

This program is new in 1978. Indian tribes and Indian organizations may set their own priorities and develop programs relevant to local needs, resources, and developing economies.

Although not an official priority list, the National Advisory Council on Vocational Education held hearings in 1976 to determine the basic issues in Indian vocational education. Four central issues emerged from the hearings, including:

1. Indian people should be involved at all levels of the program including planning, implementation and evaluation.
2. Each tribe's economic development plan should be considered as the basis for vocational education in that area.
3. Counseling and follow-through should be provided for the students.
4. Curriculum in vocational education programs should be made relevant to the Indian students.

APPLICATION PROCESS:

a. Type of award: Contracts may be awarded for up to three years. Continuation funding after the first year is dependent upon satisfactory performance.

b. Expected deadline date for applications: In FY 78, the deadline date was March 13. Future deadline dates may change as announced in in the Federal Register.

c. Required clearances: When submitting an application to the U.S. Office of Education, applicants must submit copies of the application to the Commissioner of the Bureau of Indian Affairs and the respective State Board for Vocational Education.

d. Review Process: The U.S.O.E Bureau of Occupational and Adult Education follows a standard review procedure for descretionary programs. A panel comprised of vocational education experts review and individually numerically rate each proposal. Proposal scores are averaged, standardized and ranked. The proposals with the highest numerical ratings are funded to the limit of available program monies.

e. Timeline for funding: Projects within this division are usually funded within 5-6 months of the application deadline.

f. Special information:

Applications for multi-year projects should have a detailed budget for the current program year and total budget figures for the following years.

A request for continuation of a project beyond the project period will be considered a new application and will be reviewed competitively with all other proposals. In this situation, an evaluation of the previous project period must be included in the application.

If the Commissioner of Education does not award a contract to an eligible applicant, the tribal organization or the tribe has 30 calendar days (which includes Saturdays and Sundays) to request a hearing in writing to review the Commissioner's decision.

Applicants who do not receive funding in the initial program years may wish to write for copies of successful applications under the Freedon of Information Act to gather program ideas for an improved future proposal.

CRITERIA FOR JUDGING PROPOSALS: The maximum score for the criteria listed below is 100 points. Proposals will be evaluated and given points for each criteria according to the evidence provided in the proposal. Applications must receive a minimum of 30 points to be considered for funding.

a. Program improvement. (Maximum 15 points.) The application focuses on the improvement of occupational training opportunities for Indians and delineates the way in which the proposed program will contribute to improved programs for the specific target group.

b. Need. (Maximum 10 points) The need section clearly: 1) Describes the need for the proposed activity; 2) Provides specific evidence of the need; 3) Indicates specifically how the need will be met; and 4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

c. Objectives. (Maximum 10 points) The objectives: 1) Relate to the need; 2) Are significant for vocational education; 3) Clearly describe proposed program outcomes; 4) Are capable of being attained; and 5) Are measurable.

d. Plan. (Maximum 15 points) The plan clearly describes the way in which the objectives will be accomplished by;

1. The overall design for the proposed program; and
2. The use of specific procedures to implement activities designed to accomplish each objective of each segment of the proposed program;
3. A description of:
    - i) Specific activities to be conducted in the proposed program;
    - ii) Instruments to be used in the proposed program;
    - iii) Instructional material to be used in the proposed program, if appropriate; and
    - iv) Population to be served in the proposed program; and
4. Statistical and analytical procedures, if appropriate.

e. Management plan. (Maximum 10 points) The management plan adequately describes the way in which personnel and resources will be utilized to accomplish each objective, the overall design, and each major procedure.

f. Evaluation plan. (Maximum 10 points.) The plan includes valid and reliable instruments and procedures for assessing and documenting the impact of project results in terms of the achievement of project goals and objectives.

g. Applicant's staff competencies and experience. (Maximum 10 points.) Points will be awarded on the extent to which the application clearly describes:

1. The competencies that are required for the proposed project.
2. The names and qualifications (including project management qualifications) of the project director, key professional staff, advisory groups, and any consultants;
3. Time commitments planned for the project by the project director, key staff, advisory groups, and any consultants;
4. Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects.
5. Evidence of commitment to section 7(b) of the Indian Self-Determination and Education Assistance Act.

h. Budget and cost effectiveness. (Maximum 10 points.) Points will be awarded on the extent to which the application provides a justifiable and itemized statement of cost which contains line items in the proposed budget and appears to be cost effective with respect to proposed results.

i. Institutional capability and commitment. (Maximum 10 points.) The application provides adequate evidence of:

1. Institutional experience and commitment to the proposed work;

2. Appropriate facilities and equipment; and
3. Documented assurances of support from cooperating local educational agencies, postsecondary institutions, business, industry, or labor, if support from any of these groups is necessary for successful implementation of the project.

The application, besides the numerical evaluation listed above, may also be declined by the Office of Education if:

a. The program duplicates an effort already being made;

b. Funding the program would create an inequitable distribution among tribes; or

c. The applicant has not performed satisfactorily under a previous Office of Education award.

APPROPRIATION LEVELS:

Fiscal Year 1978 - $ 5,218,476
Fiscal Year 1979 - 10,436,952* (estimate)

*Exact figures for FY 79 are not known. However, the legislation requires that the Bureau of Indian Affairs match the appropriation under P.L. 94-482 each year beginning in FY 79. The BIA monies will be transferred to the U.S. Office of Education for administration.

ESTIMATED MONIES AVAILABLE FOR NEW GRANTS/CONTRACTS:

	Total	Number of Awards	Average Size
Fiscal Year 1978	$5,218,476	35	$150,000

SPECIAL CONSIDERATIONS:

Although this special 1 percent set-aside is strictly for Indian Tribes and Indian organizations, these same organizations are eligible to apply for vocational education monies through the State Departments of Vocational Education. Congress even provided wording in its conference report on P.L. 95-40 that the special set-aside does not reduce the state vocational education obligation to Indian tribes. States receive vocational education monies based on a population formula and a state plan. Indian tribes should be in contact with the State Board of Vocational Education and the State Department of Vocational Education to be included in future state plans. Also, 10 percent of the monies provided to states each year in vocational education are discretionary funds for new, innovative programs.

The National Center for Vocational Education may be an excellent resource for applicants seeking information on vocational education programs, research, and curriculum resources. Contact should be made directly with:

The National Center for Vocational Education
The Ohio State University
1960 Kenny Road
Columbus, Ohio 43210

Phone: 614-486-3655

CONTACT PERSON FOR FURTHER INFORMATION, APPLICATION KIT, AND TECHNICAL ASSISTANCE:

Doris V. Gunderson, Program Director
Contract Program for Indian Tribes and Indian Organizations
Divison of Vocational Education
Bureau of Occupational and Adult Education
U.S. Office of Education
Room 5026
R.O.B. # 3
Seventh and D Streets S.W.
Washington, D. C. 20202

Phone: 202-245-2614

EXAMPLES OF GRANT AWARDS TO NATIVE AMERICANS:

As this is a new program in FY 78, there are no examples of Native American vocational education programs through this particular program. Although the following descriptions are for programs utilizing funds from sources other than specific vocational education monies, they are indicative of potential programs either through direct program contract or sub-constract with area services agencies.

United Tribes Educational Technical Training Center
Bismarck, North Dakota

Five area tribes participate in this vocational training program operated by the United Tribes of North Dakota Development Corporation. The student body of United Tribes is drawn from 24 agencies in eight states. Those who attend share at least one point in common: most have droped out of school and are unskilled. The training program that has taken shape at United Tribes over the years is geared specifically towards this population, providing training not only in vocational and job-skills, but also in various individual and social skills the students will need once they have left United Tribes and secured employment. Thus an important feature of United Tribes is its comprehensive approach to Indian education.

The basic objective of United Tribes Employment Training Center is to provide disadvantaged, underachieving and unskilled Indian people with job skills and a well-rounded education.

The students learning experience involves three different areas; vocational, personal development and adult basic education. The training period is a maximum of 52 weeks in any one of the ten vocational training areas available.

The Center offers the following ten vocational areas:

1. Business Clerical
2. Automotive Maintenance
3. Auto Body Repair
4. Food Service (preparation)
5. Nurses Aide
6. Building Trades
7. Police Science
8. Painting
9. Human Services (counseling)
10. Welding

Navajo Manpower Programs
Window Rock, Arizona

The Navajo Nation subcontracts these 7 training programs for tribal members related to individual need and the developing tribal economy.

A. Career Studies Program
Vocational Education Training Opportunity
College of Ganado
Ganado, Arizona

This program covers GED and ABE training as well as Food Service which includes food preparation and baking, office clerical for goals of 45 w.p.m. typing and 60 w.p.m. shorthand skills, stenographer for goals of 60 w.p.m. typing and 80 w.p.m. shorthand, Allied Health, Cashier/Checker

B. Training For Intensive Livestock Production
Navajo Agriculture Products Industry
P.O. Box [illegible]
Farmington, New Mexico

A program to train employees for NAPI and the Navajo Indian Tribe in modern beef cattle and sheep production techniques, and in supervisory management of other employees' programs in the second and third years will include training in livestock buying and marketing, lamb and beef slaughter, meat processing and marketing and distributing techniques.

C. Navajo Uranium Mines
On-Job Training (OJT) Program
Kerr-McGee Corportation
Church Rock, New Mexico

The purpose of this program is to provide challenging and rewarding employment for Navajo men and women who are not now gainfully employed, and who are currently not adequately skilled to assure upward mobility. A program of on the job training offers careers and qualifications for Navajo in uranium mining.

D. Navajo Uranium Mines Training Program
Classroom Training
Kerr-McGee Corporation
Church Rock, New Mexico

The purpose of this program is to provide employment for the Navajo people who are not now gainfully employed, and to produce a work force for mining companies with uranium operations on or adjacent to the Navajo Nation. This program focuses on underground miner training in uranium mining.

E. Indian Ironworkers Apprentice Program
National Ironworkers and Employers
Training Program
Fort Deflance, Arizona

The purpose of this program is to recruit, place into training, and refer for employment as apprentice ironworkers 25 Navajo men between the ages of 18 and 30. The program provides orientation, counseling, craft training, remedial education and supportive services which are the essential to the transition of apprentices to proficient and productive journeyman-ironworkers.

F. Navajo Youth Development Program
Youth Planning Council
XYZYX Information Corporation
Window Rock, Arizona

The Navajo Youth Development Program is designed to provide the Navajo youth with meaningful activities that will enhance their perception of the world-of work; upgrade their understanding of community responsibilities; motivate them to seek careers, eduation and a constructive pastime, and to prepare them with the necessary job skills for long term vocations.

G. Summer Youth Program
XYZYX Information
Window Rock, Arizona

This program provides various work experience training for Navajo youth. In order that the Navajo youth receive well rounded training in addition to the work experience provided during the summer, social skills and remedial skill training is provided. The program is supplemented with work related mathematics, reading, tools and equipment refresher courses, communication skills taught in job preparation, resume writing and job interview techniques.

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY

TO : Assistant Secretaries
Heads of Principal Operating Components

DATE: MAR 29 1978

FROM : Assistant Secretary for
Human Development Services

SUBJECT: Guidance for Implementation of New Indian Initiative

On October 20, 1977, Secretary Califano approved a new Indian initiative for the Department based on recommendations by the Intra-Departmental Council on Indian Affairs. (See Memorandum at Tab A). The new initiative will involve every agency within HEW in an effort to increase the Department's responsiveness to American Indians and Alaskan Natives.

Detailed implementation plans for the initiative were developed by the Council and circulated by ES to all POC's for review and comment. The plans now have been authorized for implementation.

A summary of each initiative requiring participation from the POC's is presented below. In addition, a timetable of activities is attached as Tab B.

1. Improved Delivery of DHEW Program Services to Indian People

By September 30, 1978, HEW Principal Operating Components (POC's) will have developed and begun to implement plans to improve the delivery of their services and benefits to Indian people so that Indian people receive a more equitable share.

POC Participation

To implement this initiative comprehensively across the Department, each POC is being required to develop a plan for improving the delivery of services and benefits to Indian people in all its programs in consultation with Indian people. As a general guidance, a "program" is defined as having a separate identification number in the Catalog of Federal Domestic Assistance. Research and training programs related to services are to be included. A definition of American Indian/Alaskan Native is stated below to provide guidance as to the target population of this initiative. The implementation plan from each POC should include the following information for each program in the POC:

a) program affected;

b) current data on program services being delivered to Indians;

c) a quantifiable objective for each program to improve (usually increase) the delivery of services to Indians;

d) specific activities planned for implementation in each program at HQ and the Regional Offices;

e) how improved (usually increased) receipt of services will be measured;

f) the mechanism for Indian input; and

g) the timeframe for accomplishment.

By April 15, each POC is to designate an individual who will oversee this initiative within the POC and who will maintain liaison with the Council. In addition, an individual should be identified in each agency, to the bureau level, who will be responsible for the initiative within the bureau. Council members and staff will be available to assist in the development of the implementation plans.

Completed plans are to be submitted to the Council by June 15 for review and Council approval, after which the plans will be included in the MITS monitored by the Secretary.

2. Establishment of Council as Central Coordinating Point

By April 30, 1978, the Intra-Departmental Council on Indian Affairs will be established as HEW's central coordinating mechanism for Indian-related legislation, regulations, policies and administrative procedures.

POC Participation

In addition to the formal mechanisms for coordination established by ES and the Council, an advance notification system will be initiated involving the Council and its member agencies. The agencies with representatives on the Council will establish internal mechanisms for relaying information on Indian-related activities to their Council representative who would then be responsible for informing Council staff. Agencies should notify the Council of their established mechanism by April 30.

3. Definition of Indian

By September 30, 1978, a standard definition of "American Indian/Alaskan Native" will be used uniformly by all agencies and programs of the Department, except for those agencies which already have a Federally legislated definition.

POC and RO Participation

The new definition for "American Indian/Alaskan Native" to be adopted is as follows:

> "American Indian/Alaskan Native," "American Indian" and "Indian" means any individual who is a member or a descendant of a member of a North American tribe, band, or other organized group of native people who are either indigenous to the continental United States, or who otherwise have a special relationship with the United States or a State through treaty, agreement, or some other form of recognition, except as otherwise provided by Federal law. This includes any individual who claims to be an Indian and who is regarded as such by the Indian tribe, group or band of which he or she claims to be a part.

In order to insure uniform adoption of the definition, each POC shall:

a) Identify those programs which already utilize a Federally legislated definition, and provide a copy of the definition in use;

b) identify those programs which will be affected by the new definition and the impact which this change will have;

c) outline the administrative procedures and schedule to implement the new definition.

The information should be submitted to the Council by April 30, and followed-up by bi-monthly progress reports until the new definition is actually in use.

This definition of "American Indian/Alaskan Native" excludes native Hawaiians and others who are incorporated under the broader designation of "Native Americans." However, if an agency currently is utilizing a broader definition of Indian in its funding activities, no services or benefits should be withdrawn from individuals as a result of this new definition. This definition should guide agencies in identifying the target population for efforts related to the new Indian initiative.

I would also like to remind you of a related initiative to include the data category "American Indian/Alaskan Native" in all HEW data gathering and reporting systems that collect recipient racial/ethnic data. This change was to be completed by December 31, 1977 (see memorandum at Tab C).

I am requesting that you provide a status report of your agency's progress in this activity by April 30.

4. Delineation of Inter-Departmental Responsibilities

   Early childhood education and welfare issues involving cash assistance are two major areas where the responsibilities of HEW and other Federal departments are insufficiently defined. Specific delineation of responsibilities with respect to these areas will be negotiated, and transmitted in the form of interagency agreements or policy issuances by July 1, 1978. Separate guidelines will be issued to the POC's participating in these two efforts.

Please submit the requested information directly to James Kissko, Executive Director, Intra-Departmental Council on Indian Affairs at Suite #819, Riviere Building, 1832 M Street, N.W., Washington, D.C. 20036 We appreciate your cooperation in this important Departmental initiative. Should you have any questions regarding your participation in this initiative, contact Mr. Kissko at (202) 653-5839.

Arabella Martinez
Arabella Martinez

Attachments

Mr. **Kissko**. While data are available through the Indian Health Service and other Indian programs in the Department, our surveys have determined that information and data on services rendered to Indian people and appropriate analysis of that data are lacking.

The reasons are many and varied. Data and definitions of cross-programs are not standardized. Each agency has its own data collection system based on its own program needs, legislation, and regulations. Some agencies require individual recipient data; other agencies rely on group data provided by States and localities.

For the Department of Health, Education and Welfare to comply with the details and complicated requirements of section 101, would require several years and would necessitate substantial revisions in current data collection efforts.

Compliance with this section would be a difficult and time-consuming task for many HEW agencies.

The Department is currently not in a position to provide the required information and would need time and significant resources to make the necessary extensive structural changes in its data collection systems.

Because HEW relies extensively on diverse local and State data sources which vary in accuracy, the group data reported may be sufficiently reliable or valid for use in evaluation or decisionmaking.

Turning to section 102, it is not clear whether Federal administrative costs or program administrative costs, or both, are referred to.

Federal administrative costs should be obtainable. However, the collection of administrative cost data at the project level is currently restricted and would be difficult to obtain as it would impose a significant paperwork burden——

Chairman **Abourezk**. May I interrupt periodically to discuss some of these points with you?

Mr. **Kissko**. Surely.

Chairman **Abourezk**. Are you trying to say that you don't have the breakdowns of these particular Indian projects, so far as administrative costs go and program costs totally?

Mr. **Kissko**. Not throughout the Department; no, sir.

Chairman **Abourezk**. Why not? You shouldn't even need this kind of bill to have that. What kind of a bookkeeping system do you have?

Mr. **Kissko**. What we are referring to are both the programs directed to Indians specifically, as well as the majority of the Department's programs that serve Indian people as persons who are eligible for services for the general populace.

Many of the HEW programs do not collect data specifically on Indian people, much less by Indian tribes or by States or by those distinctions.

Chairman **Abourezk**. You do have the breakdown of what each of these programs costs though, don't you?

Mr. **Kissko**. At the Federal level, sure.

Chairman **Abourezk**. That is what I mean.

And if you have that, how much extra burden is it, if this particular program goes to an Indian tribe to report that amount? Is that a great burden?

Mr. **Kissko**. We could obtain the Federal expenses. In this particular section, I was saying that obtaining that information of administrative costs at the local level or by project is not available.

Chairman **Abourezk**. But we are talking about Federal costs.

Mr. **Kissko**. That is obtainable.

Chairman **Abourezk**. Then we have no argument really.

Mr. **Kissko**. The question we raise about whether we were looking for administrative costs at the local level——

Chairman **Abourezk**. What do you mean by local level administrative costs? Maybe we are talking about two different things.

Mr. **Kissko**. In the case of HEW programs—relatively few direct services are provided by the Department. Most support does go through grants and contracts to local grantees, including Indian tribes.

Now each of those grants and contracts will have administrative costs at the local level, which would not necessarily be identified as such in the applications.

Chairman **Abourezk**. I don't know that the bill requires anything except HEW's administrative costs, or whatever Federal agency is involved.

Mr. **Kissko**. It was unclear to us, Senator.

Chairman **Abourezk**. It would seem to me that we would welcome clarifying information.

It seems to me you are totally opposed to the bill, and you are grasping at anything. But if you want to help clarify, we would appreciate it. We would be grateful for it.

If you have recommendations on how to clarify that, that is fine.

But I personally cannot believe that you don't know where your money is going. That is all we are saying.

If I believe it, I would hate to admit it.

Mr. **Dozier**. We are not, I don't think, totally opposed to this bill at all.

A lot of these details, apparently appearing to be nit-picking, are on the idea of trying to provide some ideas on how the bill could be strengthened.

Chairman **Abourezk**. We would love it; we would appreciate it.

Mr. **Dozier**. We would like to work with you on that, because we do think a lot of the ideas in the bill make a lot of sense.

Chairman **Abourezk**. You don't have any control on agencies outside of HEW as to where the money goes after you administer them.

Mr. **Dozier**. Exactly.

Chairman **Abourezk**. We just need to know what your costs are.

Mr. **Dozier**. But the bill was unclear, at least to us, on that.

Chairman **Abourezk**. OK.

Mr. **Kissko**. Section 103 requires the collection of data related to the allocation of funding for specific tribes, tribal organizations, nontribal Indian organizations, and Indian reservations.

Again, this categorization is inappropriate for the programs of the Indian Education Act, the program that provides services to Indians both on and off reservations. It is also true for a small number of other education programs.

In this case, we suggest it may be more appropriate to collect this information by county or State for such programs.

The reporting of data associated with this provision would obviously be quite burdensome.

Chairman **Abourezk**. Let's stop right there again, Mr. Kissko.

Does HEW know how much it provides to specific tribes, and tribal organizations?

Mr. **Kissko**. Again, through the Indian earmarked programs, yes. For the general service programs of the Department, no.

Chairman **Abourezk**. What are the general service programs you are talking about?

Mr. **Kissko**. It would be the large formula grant programs that make services available to the States with the understanding that the State would provide services to all persons in that State.

One case would be the Elementary and Secondary Education Act, which provides support to schools.

Chairman **Abourezk**. Let me just read section 103.

> (a) With regard to appropriations for programs and services which are not specifically directed to or for the benefit of Indians but for which Indians are eligible for benefits as members of the general populace, the head of each Federal agency shall compile, maintain, and report to the Congress data and information concerning:
>
> (1) The percentage and dollar amount of any program appropriation for which said Federal agency has had a specific percentage or dollar amount designated or set aside specifically for Indians at the beginning of the fiscal year.

So if it is a general appropriation for a State or some other kind of government, the law clearly does not require you to single that out.

All it asks you to do is report what you are specifically allocating for Indian programs.

Presumably, once again, you know what those figures are.

Mr. **Dozier**. If it is just for set-aside, I think we would not have any problem.

Again, I think the question was: The way it could be read to mean that any dollars going to Indians, as members of the general populace, we would have to count. And that would be difficult for us to do.

Chairman **Abourezk**. But the bill doesn't say that.

If it did, perhaps we could adjust that.

Mr. **Dozier**. That is what we would like to suggest.

Chairman **Abourezk**. That is not what your testimony says.

Please proceed.

Mr. **Kissko**. The basic program eligibility data required by section 104 is presently available for fiscal year 1975. It should be relatively easy to update.

I have a copy of the information for 1975 that I would be happy to leave with the committee today.

We have several problems regarding the needs assessment provisions of section 106.

As you know, Federal agencies are organized along categorical or functional lines.

The approach proposed in S. 2712 would result in the distinctions of the various Federal programs being imposed on the tribes and organizations.

The information provided may be inconsistent, and we are concerned that the net result may be more confusion rather than increased understanding of needs and problems.

Also, consistent with the conclusions of the committee print of the needs assessment research, we feel that the responsibility for developing needs assessments or identifying tribal priorities should rest with the Indian tribes and organizations with support from Federal agencies rather than being conducted by the Federal agencies.

By placing the responsibility for the assessment with people or communities whose needs are being assessed, the assessment is likely to be more sensitive to the community and is more likely to be used in local priority setting and decisionmaking.

With respect to the need to establish priorities and to make choices between competing needs, we do not feel that section 106 is viable as currently written for policymaking and program evaluation.

We do offer for consideration the model being pursued by the Indian Health Service.

Secretary Califano has approved a process which offers tribes and urban groups the option of developing tribal and urban specific health plans. These will be the basis for appropriations requests for fiscal years 1981 through 1984.

Most tribes and urban groups have elected to develop their own plans with guidance and technical assistance provided by the Indian Health Service.

This approach is in keeping with the policy of self-determination, and we feel it is likely to result in greater Indian involvement in the planning and delivery of health services.

We agree that Federal interagency coordination in Indian affairs is a problem, and we suggest that the HEW council might serve as a model in addressing the problem of the lack of Federal coordination.

However the data collection, or needs assessment, are coordinated, there should be flexibility for the coordinating office to determine what data collection is feasible and necessary and how the data should be collected.

For example, it may be that the most accurate data is not available through the Federal agencies and that other options should be pursued.

In summary, the Department of Health, Education, and Welfare is opposed to S. 2712 as presently drafted.

We believe that the bill, as drafted, will not result in the attainment of the bill's implicit objectives.

The Department is sensitive to the problems addressed by the bill, and we are willing to work with the committee and its staff to resolve the concerns that we have raised.

In our text, we have outlined specific actions taken by the Department which demonstrate our commitment to a broadly based Indian initiative.

We are making substantial progress, and we feel that our approach will be successful in improving and increasing the delivery of departmental services to Indian people.

We would be willing to answer whatever questions you would have, Senator.

Chairman ABOUREZK. I take it you are not really opposed to the concept of the bill—just the way it is drafted?

Mr. KISSKO. Yes, sir.

Chairman ABOUREZK. We would hope you would work with us in helping us clarify it. We would appreciate that very much.

Mr. KISSKO. We would appreciate the opportunity, sir.

Chairman ABOUREZK. I called Secretary Califano recently about the contracting of health services care for the Indian Health Service.

That particular part of the budget ran out of money. Currently there is about $1.5 million due and owing to hospitals for Indian health care around the country.

The Indian Health Service was to ask the Congress for a letter which would actually approve of Indian Health Service spending other surgery money that they had left over for contract health care, but they refused to do so on a timely basis. The money has been owing for quite some time.

So I asked Secretary Califano if he would just direct that the letter be sent to the congressional appropriations committee.

I am curious to know if anything has been done on that.

Mr. DOZIER. I don't think either of us can answer that now. I will get you the answer.

Chairman ABOUREZK. I would appreciate it very much.

If it has not been done, can you then tell us when it will be done?

Mr. DOZIER. Absolutely.

Mr. FUNKE. Are you familiar with the study that was done by the American Indian Law Center called FIDAP Analysis—1977?

Mr. KISSKO. Yes; I was going to leave a copy with you, as a matter of fact.

Mr. FUNKE. In your plans to develop or begin new efforts to disseminate accurate information for and about Indian people, are you planning on implementing your recommendations of that study?

Mr. KISSKO. Let me share with you some of the specific steps we have taken.

We are preparing specific program descriptions on 100 of those programs, for which Indian people are eligible in HEW.

The purpose of these descriptions is to provide to the Indian tribes and organizations up to date, worthwhile, accurate information on what services are available and, more significantly, in a way that is useful to Indian people as to how they can go about seeking support.

One of the purposes of what we are doing is to go beyond the kind of information that has been made available in the Catalog of Federal Domestic Assistance, to share with people just how they can seek funds, whether funds are available during this fiscal year, and examples of other Indian tribes and organizations that have received funding and special considerations that each agency might impose that would not necessarily show through in its guidelines.

We feel this will increase the access to those programs.

Mr. FUNKE. What is your dissemination going to be? Is it going to be to all of your constituent Indian groups, whether they are tribal or urban?

Mr. KISSKO. We plan a very broad dissemination of this to not only all tribal governments but as well to Indian organizations off reservations.

We plan the distribution through the national Indian organizations as well, so that everyone is very much aware of this.

One thing we are very keen on, however, is making sure that we know exactly where each copy goes; because this will work only if we are able to provide updated information over time, and that is what we will be doing.

Mr. FUNKE. Your efforts are related strictly to HEW programs?

Mr. KISSKO. That is right.

Mr. FUNKE. I might ask George Goodwin if the Bureau has any plans of doing anything similar with regard to the Bureau programs or with regard to providing information dissemination, such as recommended by that study for both Bureau programs and other agencies' programs.

Mr. **Goodwin**. Yes; we are.

Mr. **Dozier**. This is one of the examples, I think, of how we think we can work with the committee. We think this will be a pretty useful document when it is finished.

We think within HEW we have clearly been able to do it. Outside of HEW, we think that there needs to be some mechanism for providing this in other agencies of the Government.

We think that this is at least a reasonable model to consider, particularly after we have had a couple of years of experience to see how it works in practice.

The idea is to make it as practical as possible—give names and phone numbers and dollars and that kind of data that people who are looking for Federal money can actually use.

I have been on the local level, and it is very difficult to understand what is out there.

Mr. **Funke**. One of the problems identified in that study was that, in general, they often have to go through the Federal regional councils for Federal domestic assistance programs. Oftentimes, the Federal centers or field offices are not sensitive or knowledgeable as to whether Indian tribes and Indian organizations are eligible for funding.

What plans do you have to correct that or address those types of issues?

Mr. **Kissko**. These concerns have been in existence for some time.

I think there is one general change that is occurring within the Department that will remove some of those problems. I am speaking specifically of recentralization of more programs and services.

For example, in the Office of Human Development Services, the regional apparatus is now under the control of the central office program chiefs. It is going to improve the information flow; it is going to improve the decisionmaking and the consistency and the funding patterns.

That is one important way.

I think, more significantly, however, is that the information we are providing—and I will leave an example for you—is information that each office has approved. It was developed independently of the office, and then each office was asked to state whether or not it is accurate. So what we will send out will be accurate.

It gives to the people who are seeking support the kinds of information they need to know—that they would not generally know—in getting those moneys.

Too frequently in the past the information has been held back by the agencies for distribution to areas of priority that were not necessarily set forth in a very straightforward way.

What we want to do is to get information out to people, so that they know how those moneys are distributed, what the schedules are and the deadlines, the requirements, and the like.

That information is very much a matter of control.

Mr. **Dozier**. I would like to just add on the recentralization point. This was a major initiative that the Secretary announced last June, or early spring of last year.

It really ought to deal with that problem, at least in HEW, I think, quite effectively.

The Secretary is now holding the program managers in Washington—the people responsible for the overall direction of the program—accountable for the operation of their programs nationally.

So no longer can somebody hide behind a regional office, or a regional office point to Washington and, say, shuffle back and forth.

We think that makes a lot of sense.

Mr. FUNKE. Thank you.

Chairman ABOUREZK. We would like to thank you for your appearance, and we will look forward to working with you as we proceed to markup on this legislation.

The hearing record will be open for 5 days in the event the Department of Commerce would like to submit testimony. If not, the hearing record will be closed after that time.

A number of prepared statements on S. 2712 have been submitted to the committee and they will appear in the record after the testimony.

I would like to thank all the witnesses.

The hearings are adjourned.

[Whereupon, at 10:47 a.m., the hearing adjourned.]

[The prepared statements referred to above follow:]

STATEMENT OF U. S. SENATOR SPARK MATSUNAGA, OF HAWAII, ON S. 2712, THE INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT ACT

BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
FRIDAY, APRIL 21, 1978

MR. CHAIRMAN, AS A COSPONSOR OF S. 2712, THE INDIAN PROGRAM EVALUATION AND NEEDS ASSESSMENT ACT, I APPRECIATE THIS OPPORTUNITY TO URGE THAT EARLY, FAVORABLE ACTION BE TAKEN ON THE BILL.

S. 2712 IS NOT JUST A GOOD BILL FOR THE INDIAN PEOPLE. IT IS A "GOOD GOVERNMENT" BILL. IT WOULD VASTLY IMPROVE CONGRESSIONAL OVERSIGHT OF PROGRAMS DESIGNED TO MEET THE NEEDS OF INDIANS. IT WOULD HELP US DETERMINE WHETHER THE PUBLIC'S TAX DOLLARS ARE BEING SPENT EFFICIENTLY AND EFFECTIVELY, AND IT WOULD REQUIRE GREATER ACCOUNTABILITY ON THE PART OF FEDERAL OFFICIALS CHARGED WITH IMPLEMENTING INDIAN PROGRAMS. I BELIEVE THAT IT IS A BILL WHICH CAN BE STRONGLY SUPPORTED BY SENATORS ON BOTH SIDES OF THE AISLE, WHETHER THEY ARE FISCAL CONSERVATIVES OR LIBERALS, WHETHER THEY CONSIDER THEMSELVES SUPPORTIVE OF INDIAN PROGRAMS OR NOT. IT IS A TRULY "NON-PARTISAN" MEASURE.

IN RECENT WEEKS, THE GOVERNMENT ACCOUNTING OFFICE HAS PUBLISHED A NUMBER OF REPORTS WHICH WERE VERY CRITICAL OF THE WAY INDIAN PROGRAMS ARE ADMINISTERED. IN ALMOST ALL CASES, GAO POINTED to a shocking lack of data and statistics needed for proper evaluation of the programs. This was frequently due to "poor housekeeping" on the part of the Federal agencies involved. In some cases, it apparently resulted from a deliberate attempt to cover up a lack of progress or to avoid compliance with congressional mandates. I was particularly impressed by GAO's recent report on the implementation of the Indian Self-Determination Act. Among other things, GAO's study revealed that tribal leaders were reluctant to apply for government contracts to administer existing programs, preferring instead to design and develop *new* initiatives, and that in some cases, tribal auditors themselves pointed out examples of wasteful or illegal Federal spending which had not been corrected by the government agencies involved. The conclusion which I draw from these statements is that (1) existing programs do not precisely address the most urgent needs of the Indians and (2) obviously, there is an urgent need for better monitoring of Federal expenditures in this area.

S. 2712 addresses both problems. By requiring a periodic needs assessment survey, it would enable Indians, Congress, and executive branch officials to make long-range plans aimed at meeting the real needs of the Indian people. By requiring Federal agencies which administer Indian programs to compile and maintain information concerning their programs, delivery systems, and spending it would improve oversight of Indian programs.

Mr. Chairman, I also support the enactment of S. 2712 because I believe that it would improve the image of Indian programs in general and lend credibility to the Indians' future efforts to protect their tribal rights and to achieve a greater degree of self-determination. I am myself a Japanese American and I am particularly sympathetic to the emotional pleas of other minority groups for assistance in overcoming years of discrimination, poverty and injustice. For years, I fought along with other Nisei to overcome the same type of bias and I am acquainted on a firsthand basis with the many obstacles in the way. At the same time, I can understand the reluctance of other members of Congress, when competition for the federal dollar is increasing, to support such pleas without adequate evidence of need and in the face of prior failures. I believe that implementation of S. 2712 will provide the needed proof.

Finally, Mr. Chairman, I want to thank you and the members of the Committee for drafting S. 2712 so that its provisions will apply to my Native Hawaiian constituents when they are included in federal programs applicable to Indians and other Native Americans. Although Native Hawaiians were defined as "Native Americans" in 1974 and have a representative organization funded by the Administration for Native Americans (ANA), our efforts to educate the general public about their needs and to make available a wide range of federal aid are just beginning. It is worth noting that Alu Like, the ANA-funded Native Hawaiian organization, conducted a needs assessment

SURVEY OF ITS OWN IN 1975. THE INFORMATION WHICH RESULTED FROM THAT SURVEY HAS PROVEN TO BE VERY HELPFUL TO THE HAWAII CONGRESSIONAL DELEGATION, THE HAWAII STATE GOVERNMENT, LOCAL GOVERNMENTS, AND PRIVATE ORGANIZATIONS WORKING TO ASSIST THE NATIVE HAWAIIANS. ALU LIKE'S FIELD HEARINGS AND WORKSHOPS, AND ITS DISSEMINATION OF RELIABLE FACTUAL DATA THROUGHOUT THE STATE HAVE HELPED UNIFY THE NATIVE HAWAIIAN COMMUNITY AND HAVE BEEN A MAJOR FACTOR IN THE "HAWAIIAN RENNAISSANCE" WHICH IS CURRENTLY UNDERWAY. ALONG WITH OTHER NATIVE HAWAIIAN ORGANIZATIONS, ALU LIKE IS ENCOURAGING NATIVE HAWAIIANS TO TAKE RESPONSIBLE POLITICAL ACTION IN THEIR OWN BEHALF AND TO PARTICIPATE MORE FULLY IN THE FEDERAL, STATE AND LOCAL DECISION MAKING PROCESSES, WHILE PROMOTING THE PRESERVATION OF TRADITIONAL HAWAIIAN VALUES AND SOCIAL CUSTOMS. THAT, I BELIEVE, IS A GREAT EXAMPLE OF DEMOCRACY IN ACTION.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-161468
CED8-305

April 19, 1978

The Honorable James Abourezk
Chairman, Select Committee on
Indian Affairs
United States Senate

Dear Mr. Chairman:

Your letter of March 29, 1978, requested our review and comment on S. 2712, 95th Congress, cited as the Indian Program Evaluation and Needs Assessment Act.

The bill provides for each Federal agency which administers programs and services for Indians to make an annual report to the Congress which contains information necessary for the Congress to evaluate the effectiveness of Indian programs, the efficiency and fiscal accountability of the agencies administering the programs, and the fluctuating status of Indian lands. It provides for a comprehensive needs assessment every 5 years so that the Congress can more realistically evaluate the actual unmet needs of Indians throughout the country. To insure uniform reporting and needs assessment, the bill provides for establishment of a Federal Interagency Council on Indian Affairs to coordinate Federal Indian programs, policy, and budgetary planning.

Our audits of Federal Indian programs and services have shown that more financial information is needed on the various Federal funds going to Indian tribes and that overall coordination of the Federal programs is needed also.

We have identified certain provisions of the bill which we believe warrant the attention of your Committee.

Section 102(c) states that "The General Accounting Office shall be responsible for defining, for purposes of the act, what are administrative and overhead costs" and each agency would be required to apply such definitions in maintaining the required data.

As a general rule, we prefer to have comprehensive audit authority which will enable us to make independent reviews of the programs, activities, and financial operations of Federal agencies. This kind of authority allows us to (1) check for compliance with applicable laws and regulations, (2) examine the efficiency and economy of operations, (3) review the results of operations to evaluate whether desired results and legislative objectives have been met, and (4) determine whether the agency's financial management system is adequately accounting for its resources.

Requirements such as those contained in section 102(c) regarding the specific definition of administrative and overhead costs are part of the responsibility of each executive agency under Section 113 of the Accounting and Auditing Act of 1950 to establish and maintain adequate accounting systems in accordance with accounting principles and standards prescribed by the Comptroller General.

Because of variations in accounting systems, a definition of administrative and overhead costs that would apply to all agencies would necessarily be too general to be very meaningful. We believe a more practical approach, in line with the 1950 act, would be for executive agencies to take action similar to that recommended in our February 15, 1978, report entitled "More Effective Controls Over Bureau of Indian Affairs Administrative Costs are Needed" (copy enclosed). In this report, we recommended that the Secretary of the Interior direct the Bureau of Indian Affairs to issue instructions to identify the specific subaccounts to which each Bureau organization can charge its administrative costs, and emphasize the need to comply with the instructions.

Section 201(d) provides that each Federal agency shall submit data and information compiled pursuant to the act to the Chairman of the Council on or before October 31, of each year. It does not state what the Council is required to do with the data and information. We suggest that, in order to provide an overall comparison and analysis of Federal assistance to the Indian people, the following or similar language be added at the end of this section.

B-161468
CEDB-305

"The Council shall prepare a consolidated summary report of the data and information submitted by each Federal agency and forward the report to the Congress by December 31 of each year."

Sincerely yours,

R.F.Keller

DEPUTY Comptroller General
of the United States

Enclosure

[illegible]

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Economic Development
Washington, D.C. 20230

[illegible] 26 1978

APR 24 1978

Honorable James Abourezk
United States Senate
Washington, D. C. 20510

Dear Senator Abourezk:

We regret that during hearings held on April 21, 1978, by the Senate Select Committee on Indian Affairs to take testimony on S. 2712, the Indian Program Evaluation and Needs Assessment Act, the Department of Commerce was not able to appear to present its statement.

Mr. Harold W. Williams, Deputy Assistant Secretary of Commerce for Economic Development, was in the hearing room at the time indicated to us by Committee staff. However, apparently the hearing had moved along more quickly than expected, and when you called for our testimony we had not yet arrived.

In any event, I have enclosed a copy of the statement prepared for the hearing and would appreciate having it included in the record. Please feel free to contact me or Mr. Williams if you have any questions concerning the statement.

Sincerely,

Robert T. Hall

Robert T. Hall
Assistant Secretary
for Economic Development

Attachment

STATEMENT OF H. W. WILLIAMS, DEPUTY ASSISTANT SECRETARY, ECONOMIC DEVELOPMENT ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, ON S. 2712, APRIL 21, 1978.

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to appear before the committee to briefly discuss S.2712.

The Economic Development Administration has been working with Indian tribes and Alaskan Native villages for the past 11 years through a Special Assistant for Indian Affairs who reports directly to me. We have provided most of the tribes with planning assistance, public works and technical assistance projects, business loans, drought assistance, and economic adjustment programs. Under the President's Economic Stimulus Program, over $180 million in public works projects were approved for the Indian people in Fiscal Year 1977. The Agency's total funding to Indian tribes over the past 11 years has been over $500 million.

In addition, the Office of Minority Business Enterprise provided $1.8 million in FY 1977 for technical assistance for Indian businessmen.

With regard to S.2712, the Department of Commerce favors those objectives dealing with: (1) developing up-to-date information and statistics on all Indian reservations; (2) reporting expenditures for programs and services for Indians; and (3) improving interagency coordination.

We do not favor Section 106 as currently written. It provides that each Federal agency develop a needs assessment to determine the actual needs and problems of the respective Indian tribes, tribal organizations, non-tribal organizations, and individual Indian constituencies eligible for the programs and services administered or authorized by law to be administered by the Agency.

INDIAN TRIBES, ORGANIZATIONS, AND THE PEOPLE THEMSELVES HAVE DEMANDED SELF-DETERMINATION AND THE OPPORTUNITY TO DEVELOP IN A WAY CONSISTENT WITH THEIR OWN CULTURES AND VALUES. IF FEDERAL AGENCIES ARE TO DEVELOP A NEEDS ASSESSMENT, THEN THE FEDERAL GOVERNMENT MAY ONCE AGAIN APPEAR TO BE FORCING PROGRAMS AND PROJECTS ON THE INDIAN PEOPLE.

THE NEEDS OF INDIAN TRIBES ARE MANY AND VARIED AND THEIR SPECIFIC PREFERENCES SHIFT WITH INDIAN LEADERSHIP CHANGES. WE BELIEVE THAT THE TRADITIONAL INDIAN WAYS AND INDIAN CULTURE MAKE IT PARTICULARLY INAPPROPRIATE FOR A FEDERAL AGENCY TO DECIDE WHAT THE NEEDS OF TRIBES ARE. IN ECONOMIC DEVELOPMENT, A NEEDS ASSESSMENT IS ESPECIALLY DIFFICULT. A TRIBE MAY BE UNDECIDED WHETHER IT WISHES TO ENTER THE FIELD OF INDUSTRY, AGRICULTURE, ACQUACULTURE, FORESTRY, OR THE DEVELOPMENT OF OTHER RESOURCES. IT MAY BE UNDECIDED AS TO WHETHER IT WISHES TO PROCEED WITH ECONOMIC DEVELOPMENT, IN THE CONVENTIONAL SENSE, AT ALL.

SINCE EDA ENABLES THE INDIAN PEOPLE TO DETERMINE THEIR OWN NEEDS THROUGH THE PREPARATION AND YEARLY REVISION OF AN OVERALL ECONOMIC DEVELOPMENT PROGRAM, WE DO NOT THINK IT WOULD BE HELPFUL OR APPROPRIATE FOR EDA TO INSERT ITS OWN ASSESSMENT INTO THIS PROCESS.

APR 11 1978

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

April 6, 1978

The Honorable James Abourezk
Chairman
Select Committee on Indian Affairs
Washington, D.C. 20510

Dear Chairman Abourezk:

I am responding on behalf of the Federal Election Commission to the Committee's request of March 20, 1978. In your letter you informed the Commission that the Select Committee on Indian Affairs has scheduled a hearing on S. 2712, the "Indian Program Evaluation and Needs Assessment Act" and invited the Commission to present testimony on the bill.

The subject matter of the bill is not within the jurisdiction or expertise of the Federal Election Commission. I am, therefore, respectfully informing you that the Commission will not be offering testimony on this bill.

If the Commission can be of further assistance, please do not hesitate to contact me.

Sincerely,

Thomas E. Harris

Thomas E. Harris
Chairman

General
Services
Administration Washington, DC 20405

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Honorable James Abourezk
Chairman, Select Committee on
Indian Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

By letter of March 20, 1978, your committee requested the views of General Services Administration (GSA) on S. 2712, 95th Congress, the "Indian Program Evaluation and Needs Assessment Act." We subsequently agreed to submit a statement in writing for inclusion in the printed transcript of the April 21, 1978, committee hearing on that bill.

If we can be of further assistance, please let us know.

Sincerely,

Jay Solomon

Jay Solomon
Administrator

Enclosure

Statement on Behalf of the
General Services Administration

Submitted to the
Senate Select Committee on Indian Affairs
April 21, 1978

Mr. Chairman and Members of the Committee:

We appreciate this opportunity to present to your committee a brief summary of special programs administered by the General Services Administration (GSA) for the benefit of Indians. We would also like to assure you that GSA fully supports the enactment of legislation which would allow Congress to compile and maintain the data necessary for it to evaluate the effectiveness of Federal Indian programs. We welcome the prospect of greater coordination in the implementation of these programs on the part of all agencies concerned.

GSA administers two programs which specifically benefit Indians. These programs provide for the transfer of excess and surplus Federal real and personal property to Indians under special conditions mandated by law.

Transfers of Excess or Surplus Real Property for Use by Indians.

Public Law 93-599 (approved January 2, 1975), amended section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (the Act) to provide for the disposal of certain excess real property to the Secretary of the Interior for the benefit of any group, band, or tribe of Indians. Excess properties determined to meet the requirements of section 202(a)(2) of the Act are made available for transfer by GSA to the Secretary of the Interior without compensation to be held in trust for the benefit and use of specific groups of Indians. Notices of availability concerning all excess real properties are sent to the respective area offices of the Bureau of Indian Affairs (BIA) responsible for the geographic area in which the excess properties are situated, and to the Central Office of BIA in Washington, D.C. When any property is reported excess which GSA believes may be requested for transfer pursuant to section 202(a)(2), screening with other Federal agencies is not undertaken until BIA formally advises that a transfer request will not be forthcoming.

In almost all such cases, the properties were originally taken from reservations by the Federal Government for defense uses, for fire protection facilities, or for use by BIA. Prior to the enactment of P.L. 93-599, Indian tribes had no preferential rights to excess Government-owned land within the boundaries of reservations. An example of property conveyed under section 202(a)(2) is 20.29 acres of land improved with five miscellaneous structures comprising the Former Communications and Operations Area of the Pickstown Air Force Station, Pickstown, South Dakota.

Transfers of excess properties may also be made to Federal agencies for use by Indian tribes, organizations, or individuals with grants or contracts, under general laws and procedures applicable to Federal utilization transfers. The requesting agency in such instances must have a direct programmatic use for the Federal property requested. Such transfers are distinguished from transfers of property to the Secretary of the Interior pursuant to section 202(a)(2) in that they must be justified for a definite program use. As an example, GSA is presently working to fulfill a request for transfer of 6.4 acres of land and 17 buildings comprising the Hospital Area of Fort Mac Arthur, Los Angeles County, California, from the Department of the Army to the Department of Health, Education, and Welfare for use by the Indian Health Service as an ambulatory care center. The property is valued at almost $1.5 million.

Surplus property is also available for conveyance under the Act and related statutes for certain public uses (including parks and recreation, and health and education) at up to a one hundred percent monetary discount. An example of such a conveyance was the transfer of 643.05 acres improved with 10 buildings, formerly known as the U.S. Army Strategic Communications Facility, Yolo County, California, to the Department of Health, Education, and Welfare by GSA for conveyance to D-Q University. The University is a national learning and cultural center for Indian students, as well as for others having a special interest in matters affecting Indian people and communities.

Transfer of Excess or Surplus Personal Property to Indians.

Federal and State Indians are eligible to obtain excess or surplus personal property under two separate provisions of Public Law 94-519. Excess personal property may be furnished in connection with grants to Federal Indian tribes as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c)). Transfers under this provision are specifically exempt from the 25 percent of original acquisition cost reimbursement requirement, which is applicable to most transfers to project grantees. Moreover, because most non-Federal recipients of excess personal property who were eligible prior to enactment of Public Law 94-519 have been lowered to the surplus level in priority, more excess personal property in good condition is now available to eligible Indians.

Surplus personal property may be donated to any public agency for public purposes. Any State Indian tribe, band, group, pueblo, or community located on a State reservation is defined as a public agency. State Indians are therefore eligible for donation of surplus personal property through their State Agency for Federal Property Assistance.

Mr. Chairman, we hope that this statement will enable the Committee to better understand the type of programs which GSA is administering on behalf of our nation's Indians. We will be happy to furnish you with any additional information you may find useful.

THE GENERAL COUNSEL OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

13 JUL 1978

Honorable James Abourezk
Chairman, Senate Select
  Committee on Indian Affairs
United States Senate
Washington, D. C. 20510

Re: S. 2712, 95th Congress
(Abourezk, et al.)

Dear Mr. Chairman:

This will respond to your request for the views of this Department concerning the proposed "Indian Program Evaluation and Needs Assessment Act".

The bill would establish requirements for information to be submitted to the Congress by Federal agencies administering Indian programs. Included are annual reports with detailed fiscal data and a needs assessment to be prepared every five years. The bill would also create a Federal Interagency Council on Indian Affairs to coordinate certain aspects of Indian programs.

As you know, there are many sources of information on the topic of Indians and Indian housing. The Bureau of Indian Affairs (BIA), in its consolidated housing inventory, has compiled the most current and complete set of data on the condition and supply of Indian housing. In spite of the availability of such data, it is difficult to assess the real need for Indian housing. For example, the BIA definition of a substandard unit does not agree with HUD's definition, and, using HUD's definition, a larger number of existing units would be substandard than what is reported by BIA. Even if the definitions coincided, it would remain a problem to determine what types of units are needed. Large families, by tradition and Indian culture, may require a different size and type of unit than does a typical urban family. If more Indians adopt the family structure of white society, then the need for individual units will increase. Indian off-reservation housing demand should be analyzed, as well as on reservation demand. Further, the BIA data is only for tribes served by the Bureau; HUD's housing program by law can serve additional tribes.

The proposed legislation (S. 2712) recognizes that "Indian people, on the average, have ranked and continue to rank among the highest in infant mortality rate, the lowest in longevity rate, the lowest in level of educational attainment, the lowest in per capita income, and the poorest in housing and transportation in the United States" and the bill acknowledges the failure of existing Federal efforts to improve these conditions for Indian and Alaska natives. The bill proposes to develop a system of collecting data and information to be used for identifying and evaluating the needs of Indians and Alaska natives.

Under provisions of S. 2712, the Department of Housing and Urban Development would be required to develop a basic data system that would establish and maintain support for Indian housing needs. Additionally, the bill would provide the means to coordinate and effectively administer HUD's housing programs with other Federal agencies, including the Department of the Interior and the Department of Health, Education and Welfare.

In view of the foregoing and because HUD's Indian housing program is specifically mandated by Congress to report on all activities during the current year, including estimates of cost of the projected activities for succeeding fiscal years and a statistical report on the conditions of Indian and Alaska native housing, the Department of Housing and Urban Development concurs in the basic intent of S. 2712.

We believe, however, that the proposal requires considerable clarification with respect to the role of the Interagency Council in defining, not simply the format for needs assessments, but an overall design for such assessments. We are concerned that the bill would result in costly and duplicative needs assessments, without achieving the coordination envisaged by the bill's sponsors.

It would also be useful to provide a role for the tribes themselves in the needs assessment process.

The needs assessment, however done, will be costly. An authorization should be provided.

It is unclear who would make up the Interagency Council called for in the proposal. Other than the Secretary of the Interior, there is no reference in the bill to any other members.

The data collection requirements set out in the bill are undoubtedly an important corollary of adequate needs assessment, but they are also burdensome and in some cases will be duplicative, in that agencies currently maintaining records in a different manner may find themselves required both to continue their present data collection system for their own purposes and to add on new statistical data required by this proposal. We believe the specificity of the data requirements now set out in section 101 of the bill will result in an inflexible and unresponsive management information system.

In summary, while we concur in what we believe to be the bill's basic intent, we think the proposal as drafted would be costly and is unnecessarily restrictive in its descriptions of the type of data required to be collected and the methods of collecting it. Although we cannot support S. 2712 as currently written, we are willing to work with the Committee to achieve improvements in this legislation.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Ruth T. Prokop

Ruth T. Prokop

[illegible] 1 7 1978

U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

APR 14 1978

Honorable James Abourezk
Chairman
Select Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am submitting herewith a statement of the Department of Labor's views on S. 2712, the Indian Program Evaluation and Needs Assessment Act.

I would request that you make this statement a part of the record of the proceedings on this matter.

Sincerely,

Ray Marshall
Secretary of Labor

APR 17 1978

STATEMENT OF DEPARTMENT OF LABOR
ON S.2712
THE INDIAN PROGRAM
EVALUATION AND NEEDS
ASSESSMENT ACT
SUBMITTED TO THE SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

April 14, 1978

Mr. Chairman and Members of the Committee:

I am pleased to have this opportunity to comment on S. 2712, the Indian Program Evaluation and Needs Assessment Act, introduced by the Chairman. The bill provides for the systematic collection and tabulation of data and information on Federally funded programs and services intended by the Congress to benefit Indians and others of Native American descent. The Department of Labor endorses the purposes of S. 2712. However, before discussing the bill, I would like to review briefly our programs serving Indians and other Native Americans.

Within the framework of the Comprehensive Employment and Training Act (CETA), the Department has been able to fund programs which reach virtually all reservation tribes, most of the non-reservation tribes, the recognized tribes of Oklahoma, the Alaskan Natives, Hawaiian Natives, and the majority of viable urban Indian organizations. The Department administers grants to some 160 Indian and Native American sponsors, consisting of reservations and rural and urban entities. We feel that one of the strong points of our Native American CETA program is that each grantee, or Native American sponsor, is allowed to assess its own needs and design its own program accordingly. Furthermore, the Native American sponsor is given both the responsibility and authority to administer its own CETA program.

During the current Fiscal Year 1978, Native American Employment and Training Programs (NAETP) are funded at the level of approximately $200 million. This includes funds for national programs under CETA Title III (section 302), public service employment programs under Titles II and VI, the Summer Youth Program, Youth Community Conservation and Improvement Projects (YCCIP), Youth Employment and Training Programs (YETP) and the Native American Economic Stimulus Program (NAESP). Funds under all these programs are allocated to Indian tribes on Federal and State reservations, the recognized tribes in the State of Oklahoma, Alaskan Native villages, and Hawaiian Natives. In addition, Title III funds are allocated not only to the foregoing entities, but also to designated urban sponsors. The current 160 NAETP sponsors are located in 43 States and reach Indians and others of Native American descent in all fifty States.

As with other CETA programs, the NAETP provides for full scope of employment and training program activities and services to participants. For Fiscal Year 1978, it is anticipated that the NAETP will have a total of over 100,000 participants. Approximately 21,700 persons are in public service employment programs, 4,100 are in YCCIP or YETP, 7,500 are in NAESP, 20,400 will be in the Summer Youth Program, and 53,000 are in the Section 302 program. Current information indicates that most of the participants enrolled in Section 302 programs are in work experience (50.0 percent), with the remainder enrolled in classroom training (30 percent), public service employment (10 percent), on-the-job training (7 percent) and other activities (3 percent).

Our program data show that participant enrollment in these programs is almost equal among males (51.2 percent) and females (48.8 percent). Broken down by age, 25.2 percent of the participants are 18 years and under, 19.2 percent are 19-21 years, 47.8 percent are 22-44 years, and 7.7 percent are over 44 years. Significantly, nearly 52 percent of the Indian and Native American participants have less than a 12th grade education, better than 63 percent are classified as economically disadvantaged, and nearly 79 percent were unemployed at the time of entry into the program.

For the quarter ending September 30, 1977, of the 25,929 individuals leaving the Title III program, 11,718 or 45 percent were placed in unsubsidized employment.

CETA programs for Indians and other Native Americans are administered at the national level by the Division of Indian and Native American Programs, a component of the Office of National Programs in the Department's Employment and Training Administration. The division is currently staffed with 28 professionals, 10 of whom are outstationed in strategic regional office locations (Dallas-1; Kansas City-1; Denver-3; San Francisco-2; and Seattle-3). Of the 18 located in Washington, D.C., 5 are responsible for plans, program development and administration, 3 are responsible for technical assistance and training (TAT) and the remainder are involved in grant administration. The TAT unit is also responsible for research, evaluation and demonstration programs.

Programs funded through the Division of Indian and Native American Programs are subject to reporting requirements similar to those applicable to other CETA programs. For each program (i.e., grant), the NAETP's report standardized information. For each separate grant and for each CETA title within a grant, the sponsor is required to provide quarterly reports. These reports include the Federal Cash Transactions Report, the Financial Status report, the Program Status Summary, and the Quarterly Summary of Participant Characteristics. We believe that much of the data and information required in S. 2712 could be obtained from the quarterly reports.

The Indian CETA program does not work directly with all the individual tribes. Only the larger tribes are independent sponsors. The smaller tribes, which include most of those throughout the country, are members of NAETP consortium sponsorships. Our present information system requires that only sponsors provide aggregate information and data. It therefore would be necessary for the Department to develop additional special reporting requirements in order to provide profiles of smaller tribes and other Indian service constituency units as required by Section 201(b)(1) of S. 2712. Careful consideration should be given to the amount of disaggregated data which warrants the cost of collection and analysis and the additional paperwork burden imposed on the program sponsors.

Although the Department of the Interior will present the Administration's position on this bill, we offer the following comments: First, we think that the bill could be strengthened by including information requirements in the following areas: (a) program results from Federal funds that are channeled through States directly to Indian and Native American entities; (b) identification of funds and programs used in technical assistance and training support of programs for Indians and Native Americans; and (c) identification of funds and programs used in research, evaluation and demonstration projects for Indians and Native Americans.

Second, Section 201(d) provides that data and information shall be submitted on or before October 31 of each year. Our reporting quarter ends on September 30. In order for Federal agencies such as ourselves to have sufficient time to compile and analyze this information, we recommend that the submission date in the bill be changed to December 15.

This concludes my prepared statement. Thank you for this opportunity to share our views.

SMALL BUSINESS ADMINISTRATION
* * * * * * * * * * * * Washington, D.C. * * * * * * * * * * * *

STATEMENT OF
A. VERNON WEAVER, ADMINISTRATOR
UNITED STATES SMALL BUSINESS ADMINISTRATION
BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

April 21, 1978

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE:

Thank you for this opportunity to comment on S. 2712 -- the "Indian Program Evaluation and Needs Assessment Act," which is intended to assist in solving the problems of American Indians and Alaska Natives.

We at the Small Business Administration favor the objectives of this legislation which would, in part, require Federal agencies and departments to collect and report needed data on programs for American Indians.

We believe that the types of information envisioned for collection could provide Congress and the Executive Branch with the necessary data and information required to assess the effectiveness of Federal programs of assistance to Indians.

SBA already keeps statistics regarding assistance to specific minority groups such as American Indians. This committee may be interested in knowing that in Fiscal Year 1977, SBA approved $12.9 million in loans to American Indians.

We believe that this bill has the potential for correcting some of the deficiencies in the Federal planning and administration of Indian and Native programs.

Although we favor the objectives of this bill, and agree with you Mr. Chairman that the bill would require only information that the Government should maintain as a matter of good management practice, we have some reservations regarding the "needs assessment" provision. Would it not be more appropriate for the Indians themselves or the Bureau of Indian Affairs to determine the actual needs of the various Indian Tribes and organizations and how they relate to specific Government programs?

It could be that for too long the Federal Government has been deciding for the Indians what the Indians themselves need.

President Carter has said that decisions affecting Indians should be made in "Tribal Council Chambers." It would seem that the Indians themselves are in a much better position to evaluate their own problems and needs, and the extent to which Federal programs are providing assistance.

It is our understanding that the Bureau of Indian Affairs is currently in the process of reorganization which is intended to restructure the Bureau into an organization which "is a more effective advocate of Indian interests . . . anticipates the needs . . . while ensuring the Federal Government's trust responsibilities are carried out efficiently, and provides services more efficiently to native Americans . . . ."

We expect that under this Administration the Bureau of Indian Affairs will substantially improve its services to its Indian constituency.

This concludes my prepared statement. Thank you.

Kael

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

[illegible] 26 1978

APR 25 1978

Honorable James Abourezk
Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In response to your request, the Department of Transportation is pleased to submit its views on S. 2712, the "Indian Program Evaluation and Needs Assessment Act" for inclusion in the Committee's hearing record on this bill.

S. 2712 is intended to provide the Congress with data necessary for effective oversight of the federal agencies and programs dealing with Indian affairs. It would require federal agencies to compile and report data concerning expenditures on programs providing assistance to Indians either directly or through the states or other non-Indian organizations. Data on programs specifically for the benefit of Indians would be separately reported. The bill would also require each federal agency to conduct an assessment every five years to determine the actual needs and problems of Indians with respect to the programs administered by the agency. Finally, the bill would establish a Federal Interagency Council on Indian Affairs comprised of the head of each federal agency or his or her designee. The Council would be responsible, among other things, for coordinating the needs assessments conducted by the various agencies, for coordinating policies with respect to the eligibility of Indians for federal domestic assistance programs, and for disseminating information to Indian tribes on such programs.

One of the Congressional findings contained in the bill is that "Indian people ... rank among ... the poorest in ... transportation in the United States". This Department recognizes that adequate transportation is essential to Indians, just as it is for other citizens of our society.

We provide assistance to Indians both directly (e.g., through grants to Indian tribes for public transportation projects) and through technical assistance to the Bureau of Indian Affairs (e.g., in the planning, design and construction of Indian reservation roads).

The Department is aware of the importance of collecting and analyzing information about the needs of Indians and about the availability and allocation of resources for meeting identified needs through appropriate planning and implementation of programs. However, the needs assessment and reporting requirements called for by the proposed legislation are extensive and are likely to be burdensome for those agencies having minor program responsibility for Indian people. The Department defers to agencies with direct responsibility for assessing and promoting the interest of Indian people as to the value of such information in relation to the burden of work that it will require and as to whether the structure of data reporting and needs assessment embodied in S. 2712 should be modified to better achieve the goal of assuring that federal programs are responsive to the needs of Indian people.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

John G. Wofford

for Linda Heller Kamm
General Counsel

[illegible] 10 1978

DEPARTMENT OF THE TREASURY
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20220

MAY 9 1978

Dear Mr. Chairman:

This report responds to your request for the views of this Department on S. 2712, "Relating to the evaluation and assessment of Indian programs and needs, and for other purposes."

The purpose of the bill is to provide the Congress with information it needs to evaluate the effectiveness of Indian programs. This purpose would be accomplished by requiring Federal agencies which administer such programs to provide annual program reports and a comprehensive needs assessment every five years to the Congress. The bill would also create a Federal Inter-Agency Council on Indian Affairs.

The Office of Revenue Sharing (ORS) would be subject to the annual reporting requirement in section 102 of the bill since the Revenue Sharing and Antirecession Fiscal Assistance Programs provide "direct funding" to Indian tribes, as that term is defined in section 3(j). Under the bill, the Department would be required to report to the Congress data on the level of funds distributed to Indian tribes (including Alaskan Native villages).

In addition, section 106 of S. 2712 would require the Secretary of the Treasury to develop and conduct a "needs assessment" of the Indian tribes receiving funding from any program administered by the Treasury Department. At present, the only such programs in Treasury are administered by ORS. Since payments under the programs administered by ORS are made in accordance with statutorily prescribed criteria and formulae, a needs assessment is not a useful analytic device with respect to such programs. A needs assessment is relevant to programs in which the administering Federal agency has some discretion over the amount of funds or services provided to particular recipients. There is no such discretion in the ORS programs. To avoid imposing an unnecessary administrative burden on ORS, we recommend that section 106 be revised to delete the needs assessment requirement for programs where payments are made in accordance with statutorily prescribed criteria and formulae.

The Department's most serious reservation concerning the bill is that the data generated as a result of S. 2712 may not be usable in the General Revenue Sharing Program and the Antirecession Fiscal Assistance Programs. Section 109 of the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1228), and section 203 of title II of the Public Works Employment Act of 1976, as amended (42 U.S.C. 6723) require data for those programs to have been produced by the Census Bureau or the Bureau of Labor Statistics, or to have been developed in a manner consistent with their procedures.

For the data collected under S. 2712 to be usable in the Treasury programs, it must be developed in a manner consistent with the data used for the other State and local recipient governments. Otherwise, the Indian data would not be compatible, and thus valid, for a statistical purpose.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

Deputy General Counsel

The Honorable
James Abourezk, Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D. C. 20510

REC'D JUN 19 1978

Central Maine Indian Association Inc.

95 Main Street

Orono, Maine 04468

(207) 866-5587 — 866-5588

Karl Funke
Senate Select Committee on Indian Affairs
3321 Dirksen Senate Office Building
Washington, D.C. 20510

June 16, 1978

Dear Karl:

I am following up our phone conversation of 15 June with this letter.

As I recently became aware of S2712-"Indian Program Evaluation and Needs Assessment Act"-I would like to suggest two things:

1. That it looks, from what time I have been able to put into it, like it may begin to get all departments to deal appropriately with the Federal Status/Responsibility to Indians in an organized fashion. I also agree with the suggested inclusion of the filing and indexing of legal opinions.

2. That I would like to see it applied also to States. I suggest that this may be able to be done by making reference to the Fourteenth Amendment. Two things are involved:

a. That the Federal department people who are saying they are not going to let the States off from their responsibility to serve Indians would then be able to get a handle on the State's activities.

b. That Maine currently does not identify ethnicity in records re

-AFDC
-Title XX
-General Assistance
-Medicare/Medicaid
-Community Mental Health Services

or at least has no system to give final print-outs to that effect. To do this one has to go case-by-case to define ethnicity and then that often depends on a case worker's memory, and that depends on the availability of that particular case worker. This is not adequate especially when case worker turnover is so high.

Please, if you could take this under advisement for the 29 June mark-up we would appreciate it.

Thank you,

Daniel L. Rudolph

David L. Rudolph
Director of Health and
Community Services

DLR/grp

APR 25

1978

Colville Confederated Tribes
P. O. Box 150 - Nespelem, Wash. 99155 **(509) 634-4591**

April 25, 1978

The Hon. James Abourezk, Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

SUBJECT: S. 2712, a bill "Relating to the evaluation and assessment of Indian programs and needs, and for other purposes."

Dear Mr. Chairman:

I regret that due to a combination of unfortunate circumstances and the Walton water rights case my tribe did not present testimony at the two days of hearings on the above bill. However, we are pleased to submit a written statement for the record in support of S. 2712, the so-called "Indian Program Evaluation and Needs Assessment Act".

If enacted into law, the bill would require all Federal agencies which administer special programs and services for Indians to provide an annual report to Congress which would contain information critical to the Congress to aid in its evaluation of the effectiveness of various Federally-funded Indian programs. These reports would enable Congress to monitor the efficiency with which agencies administer programs as well as to determine which of the agencies are meeting the legislative mandate to deliver service and provide assistance to tribes. The bill also requires the Bureau of Indian Affairs to provide the Congress with a comprehensive listing of land holdings throughout Indian country as well as information regarding the use and development of these lands for the benefit of Indian people.

Additionally, the bill would require that a comprehensive needs assessment study be conducted every five years so that Congress can more realistically evaluate the needs of Indians throughout the country.

The bill would also create a Federal Inter-Agency Council on Indian Affairs to coordinate Federal Indian programs, policy, and budgetary planning to increase the efficiency of service delivery as well as helping agencies to avoid duplication in services and assistance to tribes.

The system for delivery of goods and services to Indians has its basis in the early treaties of peace and friendship and the treaties for land cessions with the various Indian tribes. Though the methods of delivery have changed and the spectrum of goods and services has broadened, the United States has continued to respond to its treaty commitments and agreements by developing general and specific government programs intended to fulfill those commitments made long ago.

Today, there are literally hundreds of avenues through which goods, services, and assistance pass before they eventually reach Indian tribes and people. The inconsistency of treatment of Indian tribal governments by Federal domestic assistance agencies and the often arbitrary requirements placed upon tribal participation have given rise to serious concerns that the United States is failing to uphold its treaty obligations. The success or failure of Federal assistance to Indians is key to tribal survival and to the fulfillment of the treaties and the requirements of the law.

At the beginning of this century, other agencies besides the Bureau of Indian Affairs became involved in the provision of services and assistance to Indians. One of the objectives under this new policy was to shift from a policy of "dispatch management to that of cooperative advice and technical assistance."

Indian tribes participate in a very limited number of these programs which are designed and intended by Congress to assist local governments in performing a wide variety of services.

This lack of tribal participation in a range of potentially very helpful Federal programs is due to a combination of statutory barriers, administrative regulations, and a simple lack of access to adequate, timely, and accurate information.

A recent study indicates that there presently some six hundred domestic assistance programs which may be useful to Indian tribes, but which for lack of a consistent policy of recognizing tribes as units of government, most tribes fail to take advantage of these programs. If a tribe still wishes to undertake a program in spite of the inconsistent eligibility requirements, it faces a considerable burden trying to come to terms with a variety of complex programs which allow for no flexibility at the local level.

Many times it is a simple lack of access to information on those programs for which tribes are eligible to participate in or it may be that the paperwork involved in the application process is just too burdensome.

Without technical assistance the regulations may prove so complex that even the most sophisticated tribal governments may have difficulty and become disouraged from seeking the benefits of a program.

Program eligibility requirements sometimes require a State charter, thus ignoring the unique historical and legal relationship that exists between Indian tribes and the Federal Government. If that should prove to be the case, more often than not a State will use Indians in their service population count for more funds but will frequently ignore the priorities on the reservation.

If the basic statutes for domestic assistance programs do not identify a tribe as a unit of government, the Federal agencies charged with administering programs frequently interpret this omission as an outright exclusion.

Where this situation does not apply, there are still problems when urban and reservation areas seek assistance. Most Federal programs are on a per capita basis, and the allocations are such that they render any program meaningless insofar as its capability to address the needs is concerned.

In addition to the problems and barriers attendant to tribal and Indian organizational participation in the Federal domestic assistance programs outlined above, there is one final reason for the limited success achieved in the field of Indian management and economic development: Federal agencies have failed to implement the mandate of Public Law 93-638.

Widespread confusion exists among the various agencies as to the scope and applicability of that Act.

Several agencies simply do not see the Act as applicable to their programs.

Other agencies recognize the Act as being applicable only to those programs which are statutorily mandated for the benefit of Indians.

Even among those agencies accpeting Public Law 93-638, there is a feeling that the Act conflicts with existing Federal procurement regulations with respect to Executive Order 11246 which requires all Federal contracts to include a clause prohibiting racial discrimination. Once again, it demonstrates ignorance on the part of the agencies on the trust relationship and the role of tribal governments thus undermining the very intent of the law itself, that of strengthening tribal self-government. It is this lack of a clear, consistent policy which S. 2712 attempts to rectify and thus strengthen the ability to the Congress to exercise its oversight responsibilities and make agencies accountable for the administration of their programs. More importantly, the bill would in effect create a sort of tracking device to enable tribes to prevent agencies from significantly increasing their program funds through administrative cost devices and discretionary funds but which do not provide services or assistance to tribes. The periodic needs assessment called for in the bill would facilitate long range planning and eliminate the tendency of many agencies, particulary the BIA, from operating on a day-to-day crisis management syndrome. The bill's concept permits the placement of agencies into a greatly simplified chain of responsibility and accountability, and we support that concept.

That concludes our statement, and once again, we appreciate the opportunity to present our views on this important piece of legislation.

Mel Tonasket

Mel Tonasket, Chairman
Colville Business Council

Karl

Miccosukee Tribe of Indians of Florida

P O BOX 440021, TAMIAMI STA., MIAMI, FLORIDA 33144
TELEPHONE 305/223-8380

COUNCIL
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TREASURER

HENRY BERT
LAWMAKER

26 1978

April 19, 1978

James Abourezk
Chairman, Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Abourezk:

This new initiative to improve Indian programs seems well intentioned. Thank you for your concern. As for specific comments, we feel that a few changes may be helpful:

Sec. 101 (a)	As it now reads, the head of each federal agency having anything to do with direct or indirect funding (which will probably include at least 90% of the federal agencies) would be required to develop their own procedures for data collection, reporting, etc. This would be extremely burdensome for tribes, expecially staffs of smaller ones. A better suggestion might be to have a single set of procedures affecting all agencies, so that data are uniform, reports are not overlapping or uncomprehensive, etc.
Sec. 102	Should be endorsed and, if anything, strengthened.
Sec. 106	Should be restated so that the initiative to assess needs would be tribal rather than in agency heads. If the federal government asks the questions and decides which questio.. to ask, how to ask them, etc. the whole matter of needs definition is already decided. The tribes should assess their own needs

CONSTITUTION APPROVED BY SECRETARY OF THE INTERIOR, JANUARY 11, 1962

and agencies should tabulate, collect and analyze all the tribally identified needs presented to them. Thus, paragraph (c) of Sec. 106 is completely backward. Attaching the tribe's assessment of its own needs to something already put together by an agency seems designed just to make Indians think their assessment will be considered, while it is unstated and understood that the views of the tribes will not really be considered.

Finally, some recognition should be made in the bill that federal responses to tribal needs are not contingent merely on severity of need, nor on exact quantitative measures of benefits, but on the continued trust responsibilities of the United States regarding Indians. Further recognition should be made of the fact that this relationship is by way of agreements, etc. between governments and that tribal governments with historically demonstrable legitimacy must be dealt with as a unit irrespective of their size. Otherwise, the data to be collected would lend itself to prioritization, formula and categorical funding approaches which in and of themselves would make the programs and even governments of smaller tribes non-viable. The net effect of this legislation could then be to destroy these governments and the very communities to which they correspond.

Hopefully, these comments may assist you.

Sincerely,

Buffalo Tiger
Tribal Chairman

SHOALWATER BAY INDIAN TRIBE

Tokeland, Washington 98590

Telephone 267-4797

RESOLUTION #04-13-78-24

SHOALWATER BAY INDIAN TRIBE

WHEREAS, The Shoalwater Bay Indian Tribe is a Federally recognized Indian Tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; and

WHEREAS, The Shoalwater Bay Tribal Council is the governing body of the Shoalwater Bay Indian Indian Tribe in accordance to its Constitution; and

WHEREAS, The Shoalwater Bay Indian Tribe is aware of Senate Bill S. 2712, in consideration by the Senate; and

WHEREAS, The Shoalwater Bay Indian Tribe considers Senate Bill S. 2712 a necessity to ensure that Indian programs are meeting the needs of Tribes and that funds appropriated to provide services to Indian Tribes through federal and other organizations are not exhausted for administration purposes; now

THEREFORE BE IT RESOLVED, That the Shoalwater Bay Indian Tribe supports passage of S. 2712.

CERTIFICATION

The above Resolution was passed at a Regular Meeting held at the Shoalwater Bay Tribal Office on April 13, 1978 at which a quorum was present.
[illegible] FOR 0 AGAINST.

Douglas M. Davis

Douglas M. Davis, Chairman
Shoalwater Bay Tribal Council

ATTEST:

Mary Downs, Vice-Chairman
Shoalwater Bay Tribal Council

URBAN
COALITION
OF MINNEAPOLIS

1978

April 21, 1978

The Honorable James D. Abourezk
Senate Select Committee on
Indian Affairs
1105 Dirksen Bldg.
Washington, D.C. 20510

Dear Senator Abourezk:

I understand you recently introduced a bill in the Senate regarding the assessment of American Indian needs. Your bill comes at a time when there are several bills already introduced in the House that would diminish or abrogate all American Indian rights; which in the final analysis of our American history fifty years henceforth, would show the total collapse and destruction of the American Indian, should these bills in the House pass.

On behalf of all American Indians, I extend to you our heartfelt thanks for your continued understanding and support. Second, I can assure you our Minnesota delegation will be contacted to support your much needed bill.

Your bill also comes at a time when there is a constant need to justify services or program needs to local, state and federal levels of government. We are in the process of creating a special American Indian needs task force here in the Minneapolis/St. Paul metropolitan area. This task force is to develop and implement a model that could be used not only locally, but in most any American Indian community. The passage of your bill would most certainly expedite this process.

If you desire any further information or have questions, please contact me at your earliest opportunity. Again, our thanks; may your mocassins make tracks in many snows yet to come.

Sincerely,

Eugene D Buckanaga

Eugene D. Buckanaga
Assistant Director
Community Outreach

EDB/cda

Enclosure

Suite 303 • 1009 Nicollet Mall, Minneapolis, Minnesota 55403 • Telephone (612) 348-8550

PROPOSED

AMERICAN INDIAN NEEDS ASSESSMENT TASK FORCE

April 17, 1978

Prepared By

Upper Midwest American Indian Center -- Marcie McIntire

Minneapolis Regional Native American Center -- Marie Funmaker

Urban Coalition Indian Caucus -- Eugene Buckanaga

Currently, there is no known accurate or complete information on urban American Indian needs within the metropolitan area of Minneapolis or St. Paul. Demographic patterns are not clearly defined for the urban area, largely because of the mobility of American Indian families. Subsequently, it is likely that particular kinds of needs go unmet by social service programs. Moreover, there has been interest expressed by some Indian organizations in getting data that will support the lack of services for the Indian community.

At present, there are service groups who are either planning to do some type of needs assessment in a specific area, or who are in the process of beginning to implement their project. The Upper Midwest American Indian Center has designed a housing survey to find out the housing concerns of the Indian community of Minneapolis. The survey consists of a questionnaire to be taken to at least 1500 households. Local funding has been committed for this survey from foundations and the State Planning Agency. Both the Minneapolis Regional Native American Center and the St. Paul American Indian Center have designed a questionnaire to assess the impact of their existing programs and to determine the direction of program planning. The American Indian Center has begun their survey, and MRNAC will begin to do a household survey of approximately 600 residents after May 15, 1978. In addition to the survey, MRNAC will conduct a series of community meetings which will further elicit the needs of community residents. The Young Mothers Program of the Neighborhood Center School has also designed a questionnaire and interview format for their specific clientele.

The Urban Coalition Indian Caucus has recommended to the Urban Coalition Board of Directors the creation of a needs assessment model for organizations here and in other communities so that there may be a more uniform way to determine the problem areas within the Indian community. The role of the

Urban Coalition is to act in a supportive capacity towards accomplishing this cooperative venture. There may be other Indian organizations who have a needs assessment process planned which may be added to this list.

To have several different organizations go into the Indian community to gather the desired data is a duplication of efforts. As a result, the community may possibly refrain from participating in some or all of the different organization's projects. Furthermore, each organization is limited in terms of its staff, time and funding, as well as experience in doing research. Most funding agencies require that a systematic method of needs assessment be done, as well as evaluation of programs and client participation.

Therefore, in order to create a comprehensive needs assessment of the American Indian community, it is suggested that a unified effort by made to create a task force. The time has come for the Indian people themselves to vocalize the nature of their needs. This task force will be comprised of those organizatios that are willing to work cooperatively toward accomplishing this goal, and the staff persons designated by the participating organizations. Each Indian organization will contribute to the goals and objectives of the task force as each organization has different planning needs and priorities.

The task force would be serving the American Indian people by undertaking a needs assessment project which will be beneficial to the entire Indian community. The task force would be responsible to ensure the following:

1. That the assessment will be planned, developed, implemented and interpreted by the Indian community.
2. That the results be made available to any Indian organization, program or individual.
3. That the strict confidentiality of responses be maintained per the Privacy Data Act.

4. That appropriate funding sources both government and private be contacted and a coordinated approach be made to consultant groups.

Therefore, we are requesting that the following resolutions be supported and endorsed by the Metropolitan Indian Directors Council.

WHEREAS, the Metro Urban Indian Directors Council does recognize the need for a comprehensive community needs assessment; and the need for a cooperative effort,

Be it resolved that the Metro Urban Indian Directors Council does hereby support and create within its council a task force for the sole purpose of conducting a needs assessment, as of this date, April 24, 1978; and

Be it resolved that the Metro Urban Indian Directors Council, upon creating the task force, shall require a progress report on a timely basis from the chairperson, yet to be named; and

Be it resolved that the task force will have the sole responsibility of carrying out the task force planning, developing, implementing and interpreting the results; and

Be it resolved that the Metro Urban Indian Directors Council, having created the task force, will ensure the Indian community the results shall be confidential and shall be made available to any Indian organization, program or individual effort for the sole purpose of using said results to benefit the Indian community.

MAY 2 1978

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* NOT ADMITTED IN DISTRICT OF COLUMBIA

April 28, 1978

HAND DELIVERED

The Honorable James Abourezk
United States Senate
1105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Abourezk:

We are legal counsel for the National Congress of American Indians; the Arapahoe Tribe of the Wind River Reservation, Wyoming; the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana; the three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and the Hoopa Valley Tribe of Indians of the Hoopa Valley Reservation, California.

We write in support of S. 2712, a bill relating to the evaluation and assessment of Indian programs and needs.

If enacted into law, the bill would require the head of each federal agency to develop procedures for the compilation and maintenance of data for reporting to Congress concerning the agency's Indian services or programs, the annual expenditures for these programs, and the agency's method of funding and delivering these services. This data would include programs, funding or services directly administered by a federal agency, whether or not involving a state or local government or non-Indian organizations. The data would be categorized by states and tribes, and by non-tribal Indian organizations, and non-Indian organizations, as defined in the bill.

The bill provides that each federal agency or subdivision administering a program in which expenditures are specifically allocated for Indians shall maintain and provide to Congress the aggregate dollar amount and percentage of appropriation for each program which is spent for actual services to Indians and which is spent for administrative and overhead costs. This data would be stated separately for the agency's central office, each regional office and each local office.

S. 2712 requires each federal agency to compile and maintain data with regard to programs and services not specifically directed to Indians but in which Indians are eligible as members of the general populace. This data would include the percentage and dollar amount of any program or appropriation in which a specific dollar amount is designated for individual Indians, tribes or Indian organizations, administrative costs and/or discretionary use at a later time. This data would include separate amounts to each tribal organization or reservation.

Under the bill, federal agencies must maintain similar data with regard to program allocations for services specifically directed to Indians. The data would also include the percentage and dollar amount of any program appropriation based upon formulas governing the distribution of funds to Indians.

The bill provides that every five years each federal agency shall provide a list, with specific statutory or administrative citations of all federal domestic assistance programs administered by that agency, for which any state or local government is eligible for direct funding or direct services but for which Indian tribal governments are ineligible.

S. 2712 requires the compilation and maintenance of data regarding Indian land. With respect to each Indian reservation, former reservation, dependent Indian community, or other Indian trust or restricted land, the Bureau of

Indian Affairs is required to provide to Congress a comprehensive record of land holdings and use patterns of trust resources including specific data on the persons holding this land. This data would include an assessment as to whether the tribal lands are held in economically viable units, information concerning total acreage passed out of tribal or Indian ownership and the manner and reason for the conveyance. In addition, data will be compiled regarding the amount of land conveyed to the tribe and its members with monetary assistance from the federal government with a list of each federal program and authorizing statute permitting federal agencies to assist tribes in acquiring land and the amounts actually apportioned under these statutes.

In addition to provisions regarding the compilation and maintenance of specific information, the bill requires each agency to develop a needs assessment to be conducted every five years to determine the actual needs and problems of Indians or Indian entities for federal programs and services. The needs assessment will be specified for each Indian tribe for each reservation. The assessment will be categorized by state, if feasible, or on a nationwide basis for services provided either to non-tribal organizations or for the benefit of individual Indians. It will specify whether or not a specific need will recur each year.

The bill provides for Indian participation in the needs assessment program. Under this bill the agency will immediately notify the respective tribes or other Indian service constituency after it has made a preliminary needs assessment in order to provide the Indians with an adequate opportunity for review and comment. The tribe or Indian service constituency may furnish its own needs assessment on each subject area included within the agency's assessment and its assessment will be included as part of the agency's report if requested by the tribe or service constituency.

The agency shall include with the needs assessment the projected funding levels for future fiscal years for each tribe or reservation and each state for funding or services to non-tribal Indian organizations or individual Indian constituencies. This information would include the percentage of the unmet need this projected funding would meet during the next fiscal year.

The bill provides for the creation of a Federal Inter-Agency Council on Indian Affairs ("Council"), comprised of the federal agencies and chaired by the Secretary of the Interior. The Council would coordinate the development of the needs assessment program by developing a uniform needs assessment format and providing a brief profile on each Indian tribe or service constituency. The bill would also develop a uniform format for the submission of data. The Council would coordinate federal policies between agencies concerning the eligibility of Indian tribes for federal domestic assistance programs, develop dissemination information procedures to the tribes and recommend remedial legislation designed to facilitate tribal participation in Indian programs. In addition, the Council would assist in inter-agency agreements and facilitate funding of Indian projects pursuant to the Joint Funding Simplification Act of 1974.

As stated in the bill, the federal agencies have not developed the reporting mechanisms and information necessary to determine the needs of Indians and Alaska Natives, which has hampered the evaluation and administration of programs designed to assist Indians. The bill seeks to provide the federal government with data that will aid it in determining the actual needs of the Indian people.

The coordination of programs of use and benefit to Indians and the assessment of unmet needs have long been serious deficiencies in the administration of the federal trust responsibility to Indians. We strongly support the aims of S. 2712 in moving to correct those deficiencies. It appears that the bill will go a long way toward achieving both coordination of effort and assessment of need.

It is also appropriate and necessary that S. 2712 provides that the Indian people have sufficient input into the process when federal agencies evaluate Indian needs and determine the amounts allocated to specific Indian programs. By requiring Indian participation in an early stage in the needs assessment program, the government should be better able to evaluate the needs of Indian people.

We point out certain minor provisions that appear to require clarification.

Except for the five-year reporting requirements for the domestic assistance programs information (section 104) and the needs assessment report (section 106), there is no provision in the bill for the reporting to Congress at any specific time of the other data the agencies are directed to collect. We are not certain whether the reports are to be periodic, one-time or made at all. It would seem that the reports should be annual, but at least they should be no less often than every five years.

We also recommend that section 105(a) be amended to qualify the land holdings report requirement with respect to "former reservations." As you know, many reservations involve disputed portions in which continued reservation status is a legal issue. We are concerned that federal agencies may prejudice tribal positions on these issues by declaring that some of those disputed portions are former reservations, despite the fact that issue is not conclusively and competently decided. It appears that the remainder of the language in that section is sufficiently broad to include these disputed portions without the bill using the term "former reservation."

We appreicate the opportunity to present this statement.

Sincerely,

WILKINSON, CRAGUN & BARKER

R Anthony Rogers

By: R. Anthony Rogers

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[illegible]

July 17, 1978

CABLE ADDRESS: LITTELL
WASHINGTON, D. C.

The Honorable
James Abourezk
United States Senate
Senate Office Building
Washington, D. C. 20510

Dear Senator Abourezk:

Grave illness and extensive hospitalization of my beloved wife has delayed attention to many matters, including your latest letter.

With due appreciation of your invitation to send a statement to include in the record of hearings on your excellent bill (S.2712), even though time limitations now apparently intervene, with a few thousand Indians marching across the country and occupying Washington, to protest what I protested in concrete terms during almost twenty years while serving as General Counsel for the Navajo Tribe (having about one-fourth of the total Indian population in this country), I must at least submit these two comments:

1. Your bill is vastly superior to the incredible and unconscionable proposal in the House to abolish all Indian reservations with consequent impairment or outright repeal of treaty rights - and necessarily and consequently revocation and repudiation of the word, promises, and integrity of the United States. This would be one of the most outrageous incidents in our history, powered by a reach for Indian resources now inconviently located within treaty reservations.

2. My testimony on the subject appears in several places in Senate and House hearings and it would needlessly extend your record if I had yielded to your kind invitation to submit a statement. I will only add that your bill (S.2712), if adopted, will at long last draw together a comprehensive picture of Indian affiars and our obligations to them. (Resources can be reached in an orderly, legal way, but this is another subject!)

Kindest regards,

Sincerely yours,

Norman

Norman M. Littell

NML:kb

NORTHERN CHEYENNE TRIBE
INCORPORATED
P.O. BOX 128
LAME DEER, MONTANA 59043

LITTLE WOLF AND MORNING STAR - Out of defeat and exile they led us back to Montana and won our Cheyenne homeland that we will keep forever.

WOHEHIV - The Morning Star

July 26, 1978

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Muddy

Honorable James Abourezk, Chairman
United States Select Committee on Indian Affairs
3321 Dirksen Senate Office Building
Washington, DC 20002

RE: S.2712

Dear Senator Abourezk:

I would like to comment on behalf of the Northern Cheyenne Tribe on a piece of legislation now before the Senate Select Committee on Indian Affairs. This legislation (S.2712) would direct federal agencies to evaluate the effectiveness of their programs to aid Indians and Indian tribes and to assess the need for further assistance to Indians and Indian tribes.

I believe there is a need for evaluation of the effectiveness of federal assistance to Indian tribes. Furthermore, I believe there is a need to assess the needs for financial assistance to Indian tribes. It is important a mechanism be developed to provide accurate information about the economic and social problems of Indians and Indian tribes to Congress, the American people and the individual tribes.

The proposed legislation would direct Federal agencies to provide Congress with socio-economic and land status data. In addition, agencies are directed to provide Congress with an assessment of Indian needs and an evaluation of how the agency programs are meeting these needs. There are three problems with this concept:

1) Much of the information currently contained in federal files is inaccurate. An example is the 1970 Census which grossly undercounted many tribes;

2) Few if any agencies have staff qualified to assess Indian needs for agency services on reservations; and,

3) Agencies may not view the needs of Indians comprehensively. Thus, they may view problems only in

terms of their own priorities rather than as the service population views them.

A solution to these problems would be to provide funding for those Indian tribes who so desire to conduct the evaluation and needs assessment themselves. This would be consistent with the concept of self-determination for tribes.

The studies should be conducted in a consistent coordinated manner which yields valid data on which to base nationwide conclusions. In addition, studies should be permitted to address problems which may not be effectively dealt with by current federal programs.

In my view, it is imperative that legislation be passed which would authorize and fund needs assessment and program evaluation of Indian programs. For these reasons we urge passage of this important legislation.

Sincerely,

Allen Rowland

Allen Rowland, President
Northern Cheyenne Tribe